FEDERAL REGISTER

VOLUME 8 NUMBER 50

Washington, Friday, March 12, 1943

The President

EXECUTIVE ORDER 9312

DEFINING THE FOREIGN INFORMATION ACTIVITIES OF THE OFFICE OF WAR INFORMATION

Under and by virtue of the authority vested in me by Title I of the First War Powers Act, 1941, approved December 18, 1941 (Public Law 354—77th Congress), and as Commander in Chief of the Army and Navy and as President of the United States, it is hereby ordered as follows:

1. The Office of War Information will plan, develop, and execute all phases of the federal program of radio, press, publication, and related foreign propaganda activities involving the dissemination of information. The program for foreign propaganda in areas of actual or projected military operations will be coordinated with military plans through the planning agencies of the War and Navy Departments, and shall be subject to the approval of the Joint Chiefs of Staff. Parts of the foreign propaganda program which are to be executed in a theater of military operations will be subject to the control of the theater commander. The authority, functions and duties of the Office of War Information shall not extend to the Western Hemisphere, exclusive of the United States and Canada.

2. The military order of June 13, 1942, establishing the Office of Strategic Services, is hereby modified to the extent necessary to make this order effective.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 9, 1943.

[F. R. Doc. 43-3806; Filed, March 10, 1943; 3:25 p. m.]

Regulations

TITLE 7—AGRICULTURE

Chapter VII—Agricultural Adjustment Agency

[ACP-1942-20]

PART 701—AGRICULTURAL CONSERVATION PROGRAM

SUBPART D—1942

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1942 Agricultural Conservation Program, as amended, is further amended as follows:

Section 701.310 (b), the first sentence thereof is amended to read as follows:

§ 701.310 *Application for payment.* * * *

(b) *Time and manner of filing application and information required.* Payment will be made only upon application submitted on the prescribed form to the county office on or before a date fixed by the regional director but not later than June 30, 1944.

Done at Washington, D. C., this 10th day of March 1943. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 43-3821; Filed, March 11, 1943; 11:15 a. m.]

[P-1942-4]

PART 741—PARITY PAYMENT REGULATIONS

SUBPART D-1942

By virtue of the authority vested in the Secretary of Agriculture by the item entitled "Parity Payments" contained in the Department of Agriculture Appropriation Act, 1942 (Public Law No. 144, 77th Congress, approved July 1, 1942; 55 Stat. 446), and pursuant to the provisions of sections 301 and 303 of the Agricultural Adjustment Act of 1938, as amended, (Public Law No. 430, 75th Congress, 3d Session; 82 Stat. 38, 45, 7 U. S. C. 1940 ed. 1301, 1303) the 1942 Parity Payment Regulations, as amended, are hereby amended as follows:

Section 741.308 (a), the first sentence thereof, is amended to read as follows:

§ 741.308 *Application for payment*—(a) *Time and manner of filing application and information required.* Payment will be made only upon application submitted on the prescribed form to the county office on or before a date fixed by the regional director but not later than June 30, 1944. * * *

Done at Washington, D. C. this 10th day of March 1943.

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Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 43–3822; Filed, March 11, 1943; 11:15 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4830]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

WISCONSIN DELUXE DOLL & DRESS COMPANY, ETC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* In connection with offer, etc., in commerce, of respondent's novelty or other merchandise, (1) selling, etc., blankets, clocks, lamps, kitchen ware, fishing tackle, household goods, or any other merchandise, accompanied by a Bingo set or any similar device to be used, or which may be used, by the purchaser of said merchandise, or others, as a means of disposing of said merchandise by means of a game of chance, gift enterprise or lottery scheme; (2) supplying, etc., others with Bingo sets or similar devices, either with assortments of blankets, clocks, lamps, kitchen ware, fishing tackle, household goods, or any other merchandise, or separately, which said Bingo sets or similar devices are to be used or may be used in selling or distributing said merchandise to the public; and (3) selling, etc., any merchandise by means of a game of chance, gift enterprise or lottery scheme; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Wisconsin DeLuxe Doll & Dress Company, etc., Docket 4830, March 5, 1943].

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of March, A. D. 1943.

In the matter of Wisconsin Deluxe Doll & Dress Company, a corporation trading as Wisconsin Deluxe Corporation.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Wisconsin Deluxe Doll & Dress Company, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of novelty or other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Selling or distributing blankets, blocks, lamps, kitchen ware, fishing tackle, household goods, or any other merchandise, accompanied by a Bingo set or any similar device to be used, or which may be used, by the purchaser of said merchandise, or others, as a means of disposing of said merchandise by means of a game of chance, gift enterprise or lottery scheme.

(2) Supplying to or placing in the hands of others, Bingo sets or similar devices, either with assortments of blankets, clocks, lamps, kitchen ware, fishing tackle, household goods, or any other merchandise, or separately, which said Bingo sets or similar devices are to be used or may be used in selling or distributing said merchandise to the public.

(3) Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered, That respondent shall within sixty (60) days after service upon it of this order file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 43–3819; Filed, March 11, 1943; 10:57 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess-Profits Taxes

[T. D. 5240]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

AMENDMENTS RELATING TO CERTAIN FISCAL YEAR TAXPAYERS

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to section 140 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended as follows:

There is inserted immediately preceding the heading "Computation of Net Income" which immediately precedes section 111 the following:

SEC. 140. CERTAIN FISCAL YEAR TAXPAYERS. (Revenue Act of 1942, Title I.)

(a) *Computation of tax for year ending in 1942.* The Internal Revenue Code is amended by inserting after section 107 the following new section:

SEC. 108. TAXABLE YEARS BEGINNING IN 1941 AND ENDING AFTER JUNE 30, 1942.

(a) *General rule.* In the case of a taxable year beginning in 1941 and ending after June 30, 1942, the tax imposed by sections 11, 12, 13, 14, and 15 shall be—

(1) *Corporations.* In the case of a corporation an amount equal to the sum of—

(A) that portion of a tentative tax, computed without regard to section 140 of the Revenue Act of 1942, which the number of days in such taxable year before July 1, 1942, bears to the total number of days in such taxable year, plus

(B) that portion of a tentative tax, computed as if the amendments made by section 105 (a) and the amendments made by sections 105 (b) (other than those relating to dividends on the preferred stock of public utilities) (c), (d), and (e) (1) of the Revenue Act of 1942 were applicable to such taxable year, which the number of days in such taxable year after June 30, 1942, bears to the total number of days in such taxable year.

(2) *Taxpayers other than corporations.* In the case of a taxpayer other than a corporation, an amount equal to the sum of—

(A) that portion of a tentative tax, computed without regard to section 140 of the Revenue Act of 1942, which the number of days in such taxable year before July 1, 1942, bears to the total number of days in such taxable year, plus

(B) that portion of a tentative tax, computed as if the amendments made by sections 102 and 103 of the Revenue Act of 1942 were applicable to such taxable year, which the number of days in such taxable year after June 30, 1942, bears to the total number of days in such taxable year.

(b) *Special classes of taxpayers.* This section shall not apply to an insurance company subject to Supplement G, an investment company subject to Supplement Q, or a Western Hemisphere Trade Corporation, as defined in section 109.

(b) *Taxable years to which amendment applicable.* The amendment made by this section shall be applicable to taxable years beginning in 1941 and ending after June 30, 1942.

§ 19.108–1 *Computation of tax for taxable years beginning in 1941 and ending after June 30, 1942.* For a taxable year beginning in 1941 and ending after June 30, 1942, the normal tax imposed under sections 11, 13 and 14 and the surtax imposed under sections 12 and 15 shall be computed as follows:

(a) *Corporations.* In the case of a corporation the normal tax and the surtax shall be the sum of the following:

(1) That portion of a tentative normal tax and a tentative surtax, computed under the law applicable to a taxable year beginning on January 1, 1941, which the number of days in such taxable year before July 1, 1942, bears to the total number of days in such taxable year.

(2) That portion of a tentative normal tax and a tentative surtax computed under the law applicable to a taxable year beginning on January 1, 1941, as if the amendments made by sections 105 (a), relating to normal tax on corporations, 105 (b) (other than those relating to dividends on the preferred stock of public utilities), relating to surtax on corporations, 105 (c), relating to nondeductibility of excess-profits tax, 105 (d), relating to credit for income subject to the tax imposed by Subchapter E of Chapter 2 (the excess-profits tax), and 105 (e) (1), relating to credit for dividends received, of the Revenue Act of 1942 were applicable to such taxable year, which the number of days in such taxable year after June 30, 1942, bears to the total number of days in such taxable year.

(b) *Taxpayers other than corporations.* In the case of a taxpayer other than a corporation the normal tax and the surtax shall be the sum of the following:

(1) That portion of a tentative normal tax and a tentative surtax, computed under the law applicable to a taxable year beginning on January 1, 1941, which the number of days in such taxable year before July 1, 1942, bears to the total number of days in such taxable year.

(2) That portion of a tentative normal tax and a tentative surtax, computed under the law applicable to a taxable year beginning on January 1, 1941, as if the amendments made by section 102, relating to normal tax on individuals, and section 103, relating to surtax on individuals, of the Revenue Act of 1942 were applicable to such taxable year, which the number of days in such taxable year after June 30, 1942, bears to the total number of days in such taxable year.

The provisions of section 108 apply to estates, trusts, and nonresident alien individuals. The provisions of section 108, however, do not apply to individuals who make their returns under Supplement T, or to nonresident alien individuals, not engaged in trade or business within the United States and not having an office or place of business therein, whose aggregate gross income from the sources specified in section 211 (a) (1) (A) is $23,000 or less. The method of computation prescribed by section 108 is likewise not applicable to an insurance company subject to Supplement G prior to amendment by the Revenue Act of 1942, an investment company subject to Supplement Q prior to amendment by the Revenue Act of 1942, or a Western Hemisphere Trade Corporation, as defined in section 109.

The provisions of section 103 apply to a taxable year beginning in 1941 and ending after June 30, 1942, whether or not such taxable year is one of less than twelve months, but they do not apply to a taxable year beginning in 1941 and ending before July 1, 1942, or to a taxable year beginning in 1942. In the case of a taxpayer other than a corporation, who is subject to the provisions of section 108 and who, due to a change in his accounting period, has a taxable year of less than twelve months, the net income shall be placed on an annual basis for the purposes of computing the tentative taxes provided in section 108 (a) (2) (A) and section 108 (a) (2) (B), and both such tentative taxes shall be computed thereon under the provisions of section 47 applicable to a taxable year beginning on January 1, 1941 (see § 19.47–2); however, in the case of a taxpayer other than a corporation, who, due to any reason other than a change in his accounting period, and in the case of a corporation which, due to any reason, has a taxable year of less than twelve months, the net income shall not be placed on an annual basis.

The amendments made by section 150 (c) of the Revenue Act of 1942 to section 117 (c), relating to alternative taxes with respect to capital gains, shall not apply in the computation of the tax for any taxable year subject to the provisions of section 108, but section 117 (c), prior to its amendment by section 150 (c) of the Revenue Act of 1942, shall apply in such computation.

In the case of a corporation subject to the provisions of section 108, dividends received on the preferred stock of a public utility corporation shall be included, for purposes of the computation of each of the two tentative taxes provided in section 108 (a) (1) (A) and section 108 (a) (1) (B), in computing the credit for dividends received provided in section 26 (b). However, in the computation of each such tentative tax there shall not be allowed the credit provided in section 26 (h) for dividends paid on certain preferred stock of certain public utility corporations.

In the case of a corporation whose taxable year begins in 1941 and ends after June 30, 1942, the excess-profits tax, for purposes of the computation of the tentative tax provided in section 108 (a) (1) (A), shall be the tentative tax computed under section 710 (a) (3) (A). Likewise, the credit for income subject to the tax imposed by Subchapter E of Chapter 2 (the excess-profits tax) shall be, for the purposes of the computation of the tentative tax provided in section 108 (a) (1) (B), the adjusted excess-profits net income used in computing the tentative tax provided in section 710 (a) (3) (B), except that in the case of a taxable year of less than twelve months such credit shall be the amount of which the tentative excess-profits tax for such year computed under the provisions of section 710 (a) (3) (B) (without regard to the 80 percent limitation provided in section 710 (a) (1) (B)) is 90 percent, and except that in the case a corporation computing such excess-profits tax under section 721 (relating to abnormalities in income in the taxable period), section 726 (relating to corporations completing

contracts under the Merchant Marine Act of 1936), section 731 (relating to corporations engaged in mining strategic minerals), or section 736 (b) (relating to corporations with income from long-term contracts), such credit shall be the amount of which the tentative tax computed under the provisions of section 710 (a) (3) (B) (without regard to the 80 percent limitation provided in section 710 (a) (1) (B)) is 90 percent.

Inasmuch as the net income for purposes of the second tentative tax provided in section 108 (a) (1) (B) is computed without regard to any deduction for excess-profits tax, all deductions which are limited to a fixed percentage of net income, e. g., charitable contributions (section 23 (q)) and percentage depletion (sections 23 (m) and 114 (b), (3) and (4)), shall be so determined on the basis of a net income computed without regard to any deduction for excess-profits tax.

In the case of a taxpayer other than a corporation subject to section 108, the credits against net income, for purposes of the computation of each of the tentative taxes provided in section 108 (a) (2) (A) and section 108 (a) (2) (B), shall be the same as those applicable to a taxable year beginning on January 1, 1941.

Example. Corporation X is a domestic corporation which makes its income tax returns on a fiscal year basis. For the fiscal year ending November 30, 1942, it has a gross income of $500,000; during such fiscal year it received no dividends on securities of other corporations, nor any interest on any obligations of the United States or of any Government corporation. Its allowable deductions, not including any deduction for excess-profits tax, are $100,000. Its applicable excess-profits credit is $345,000, and no adjustments are to be made under section 711. Its adjusted excess-profits net income for purposes of the computation of the tentative tax provided in section 710 (a) (3) (A) is $50,000, and such tentative excess-profits tax is $19,000. Its adjusted excess-profits net income for purposes of the computation of the tentative excess-profits tax provided in section 710 (a) (3) (B) is likewise $50,000, and such tentative excess-profits tax is $45,000. The normal tax and surtax of Corporation X for the fiscal year ending November 30, 1942, are $88,321.32 and $38,819.29, respectively, computed as follows:

(a) *Computation of tentative taxes provided in section 108 (a) (1) (A).*

NORMAL TAX

Gross income	$500,000
Less deductions (not including deduction for excess-profits tax)	100,000
Net income before deduction for excess-profits tax	400,000
Less deduction for excess-profits tax (as computed under section 710 (a) (3) (A))	19,000
Normal tax net income	381,000
Normal tax on $381,000 at 24%	$91,440

SURTAX

Net income before deduction for excess-profits tax	$400,000
Less deduction for excess-profits tax (as computed under section 710 (a) (3) (A))	19,000
Surtax net income	381,000

SURTAX—continued

Tax on $25,000 at 6%	$1,500
Tax on $356,000 at 7%	24,920
Surtax on $381,000	$26,420

(b) *Computation of tentative taxes provided in section 108 (a) (1) (B).*

NORMAL TAX

Gross income	$500,000
Less deductions (not including deduction for excess-profits tax)	100,000
Net income	400,000
Less adjusted excess-profits income (for purposes of computation of tentative excess-profits tax provided in section 710 (a) (3) (B))	50,000
Normal tax net income	350,000
Normal tax on $350,000 at 24%	$84,000

SURTAX

Net income	$400,000
Less adjusted excess-profits net income (for purposes of computation of tentative excess-profits tax provided in section 710 (a) (3) (B))	50,000
Surtax net income	350,000
Surtax on $350,000 at 16%	$56,000

(c) *Computation of normal tax and surtax for fiscal year ending November 30, 1942.*

Number of days in taxable year prior to July 1, 1942	212
Number of days in taxable year after June 30, 1942	153

NORMAL TAX

Tentative normal tax computed in (a) $91,440	
212/365ths of $91,440	$53,110.36
Tentative normal tax computed in (b) 84,000	
153/365ths of $84,000	35,210.96
Total normal tax	$88,321.32

SURTAX

Tentative surtax computed in (a) $26,420	
212/365ths of $26,420	$15,345.32
Tentative surtax computed in (b) 56,000	
153/365ths of $56,000	23,473.97
Total surtax	$38,819.29

(Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C., 1940 ed., 62) and sec. 140 of the Revenue Act of 1942 (Public Law 753, 77th Congress)).

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 10, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-3839; Filed, March 11, 1943; 11:54 a. m.]

Subchapter B—Estate and Gift Taxes

[T. D. 5239]

PART 81—REGULATIONS RELATING TO ESTATE TAXES

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 105 [Part 81, Title 26, Code of Federal Regulations, 1942 Sup.] to certain sections of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, and to the Joint Resolution of December 17, 1942 (Public Law 809, 77th Congress), such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 81.2 the following:

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.*—Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000".

* * * * *

SEC. 412. EXEMPTION OF ESTATES OF NONRESIDENTS NOT CITIZENS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Exemption.*—Section 861 (a) (relating to deductions in case of estates of nonresidents not citizens) is amended by inserting at the end thereof the following new paragraph:

(4) *Exemption.*—An exemption of $2,000.

(b) *Technical amendment with respect to property previously taxed.*—For technical amendment with respect to property previously taxed, see section 405 (c) of this Act.

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 2. Section 81.2 is amended as follows:

(A) By striking out the last sentence of the third paragraph and by inserting in lieu thereof the following sentences:

For the purpose of the basic estate tax, a specific exemption of $100,000 is authorized in the case of a resident or citizen of the United States, and a specific exemption of $2,000 is authorized in the case of a nonresident not a citizen of the United States who died after October 21, 1942, the date of the enactment of the Revenue Act of 1942. No specific exemption is authorized in the case of a nonresident not a citizen of the United States who died on or before October 21, 1942.

(B) By striking out the last sentence of the fourth paragraph and by inserting in lieu thereof the following sentences:

For the purpose of the additional tax, in the case of a resident or citizen, a specific exemption of $60,000 is authorized if the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, or $40,000 if the decedent died on or before such date. In the case of a nonresident not a citizen a specific exemption of $2,000 is authorized if the decedent died after October 21, 1942, but no specific exemption is allowed if the decedent died on or before such date.

(C) By striking out the last sentence of the fifth paragraph.

PAR. 3. Section 81.3 is amended to read as follows:

§ 81.3 *Gross estate.* In addition to the general provisions of subsection (a) of section 811 requiring the inclusion in the gross estate of property (except real property situated outside the United States) to the extent of the interest therein of the decedent, other subsections of section 811 more specifically include in the gross estate for the purpose of the estate tax, as more fully explained hereafter in these regulations, certain transfers made during the decedent's life without an adequate and full consideration in money or money's worth, joint estates with right of survivorship, tenancies by the entirety, community property, life insurance even though payable to beneficiaries other than the estate, property over which the decedent possessed a power of appointment, and dower or curtesy of the surviving spouse or statutory estate in lieu thereof.

PAR. 4. Section 81.4 is amended by striking out the last sentenee and by inserting in lieu thereof the following sentences:

There is no basis for tax if the value of the gross estate does not exceed the total amount of the authorized deductions, but whether taxable or not, a return must be filed for every estate, unless the value of the gross estate at the date of the decedent's death does not exceed the amount of the applicable specific exemption. For regulations relative to the specific exemption in the case of a resident or citizen see § 81.48, and in the case of a nonresident not a citizen see § 81.55.

PAR. 5. Section 81.6 is amended by changing the second paragraph thereof to read as follows:

If the decedent was a resident or citizen of the United States, a net estate computed with a specific exemption of $100,000 must be determined for the purpose of the basic estate tax, and another net estate computed with a specific exemption of $60,000 in case the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, or $40,000 in case the decedent died on or before October 21, 1942, must be determined for the purpose of the additional estate tax. If the decedent was a nonresident not a citizen of the United States, a net estate computed with a specific exemption of $2,000 must be determined both for the purpose of the basic estate tax and for the purpose of the additional estate tax in case the decedent died after October 21, 1942, but no specific exemption is allowed if such decedent died on or before such date.

PAR. 6. Section 81.7 is amended as follows:

(A) By changing the last sentence of the second paragraph to read as follows:

In the case of a resident or citizen of the United States, the value of the net estate determined for the purpose of the basic tax differs from the value of the net estate determined for the purpose of the additional tax, since for the former a specific exemption of $100,000 is authorized while for the latter the amount of the specific exemption is $60,000 if the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, or $40,000 if the decedent died on or before such date.

(B) By inserting at the end of the first paragraph of *Example* (3) the following sentence:

(In the case of a decedent who died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, the credit for gift tax paid should be subtracted from the gross basic tax after the subtraction of credit for State inheritance taxes, instead of before, as set forth in this example. See § 81.9.)

PAR. 7. There is inserted immediately preceding § 81.8 the following:

SEC. 410. PRIORITY OF CREDIT FOR LOCAL DEATH TAXES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amendment to credit for 1924 gift tax.* Section 813 (a) (1) (relating to credit for estate tax of gift tax paid under 1924 Act) is amended by inserting after "subchapter" where it occurs the second time the following: "(after deducting from such tax the credit provided by section 813 (b))".

(b) *Amendment to credit for 1932 and Chapter 4 gift tax.* Section 813 (a) (2) (A) (relating to credit for estate tax of gift tax paid under 1932 Act or Chapter 4) is amended by inserting after "860" where it occurs the second time the following: "(after deducting from such tax the credits provided by section 813 (a) (1) and (b))".

(c) *80 per centum limit on local death tax computed before allowance of gift tax credit.* Section 813 (b) (relating to credit for local estate, succession, legacy, and inheritance taxes) is amended by striking out "(after deducting from such tax the credits provided by section 813 (a) (2))" and inserting in lieu thereof "(before deducting from such tax the credits provided by section 813 (a) (1) and (2))".

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 8. Section 81.8 is amended as follows:

(A) By inserting "(1)" immediately after "(*a*) *Credit against the basic tax imposed by section 810 or section 860.*—"

(B) By inserting immediately after "gross basic tax" in the first sentence of "(*a*)", the following: "(reduced, in the case of estates of decedents dying after October 21, 1942, by credits, as provided in the next paragraph)".

(C) By inserting immediately after the last sentence of "(*a*)", the following paragraph:

(2) With respect to estates of decedents dying on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, the credit for gift tax authorized under section 813 (a) (1) is to be deducted first and then the credit authorized under section 813 (a) (2) is to be deducted, with both credits for gift taxes to be deducted from the basic tax *before* deducting the credit for estate, inheritance, legacy or succession taxes. With respect to the estates of decedents dying after the date of enactment of the Revenue Act of 1942, the credit for estate, inheritance, legacy or succession taxes is to be deducted first and then the credits under section 813 (a) (1) and section 813 (a) (2) are to be deducted in that order.

(D) By striking out "subsequent to the effective date of the gift tax imposed by chapter 4 of the Internal Revenue Code" in the second sentence of the paragraph following the paragraph designated (*b*), and by inserting in lieu thereof "in 1941".

PAR. 9. Section 81.9 is amended by changing the third sentence of the first paragraph to read as follows:

The credit is limited to 80 percent of such Federal estate tax, after deduction of the credits allowed, if any, against such tax for Federal gift taxes paid in case the decedent died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, and to 80 percent of such Federal estate tax before deduction of the credits allowed for gift tax paid in case the decedent died after October 21, 1942.

PAR. 10. There is inserted immediately after section 802 of the Internal Revenue Code, and preceding section 302 (c) of the Revenue Act of 1926 (as originally enacted), which precede § 81.15, the following:

SEC. 402. COMMUNITY INTERESTS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Transfers of community property in contemplation of death, etc.* Section 811 (d) (relating to revocable transfers) is amended by adding at the end thereof the following new paragraph:

(5) *Transfers of community property in contemplation of death, etc.* For the purposes of this subsection and subsection (c), a transfer of property held as community property by the decedent and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered to have been made by the decedent, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse.

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 11. Section 81.15 is amended by inserting immediately after the first paragraph thereof the following paragraph:

In the case of estates of decedents dying after October 21, 1942, a transfer to a third party or third parties of property held as community property by the decedent and spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered, in accordance with section 811 (d) (5), as added by section 402 (a) of the Revenue Act of 1942, for the purposes of this section and §§ 81.16 through 81.21, inclusive, to have been

made by the decedent, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the spouse or derived originally from such compensation or from separate property of the spouse. The same statutory provisions apply in the case of a division of such community property between the decedent and spouse into separate property, and in the case of a transfer of any part of the community property into separate property of such spouse; in such cases, the value of the property which becomes the separate property of such spouse, with the exception stated in the preceding sentence, shall be included in the gross estate of the decedent under section 811 (c) or section 811 (d), if the other conditions of taxability under such sections exist. If in the case of a decedent who died after October 21, 1942, property held as community property by such decedent and his spouse is transferred to themselves as joint tenants or as tenants by the entirety, the transfer is taxable under section 811 (c), except with respect to such part of the property so transferred as is attributable to the spouse under the exception stated in the first sentence of this paragraph. With respect to the meaning of property derived originally from such compensation or from separate property of the spouse and to the identification required, see § 81.23.

PAR. 12. There is inserted immediately preceding § 81.22 the following:

SEC. 402. COMMUNITY INTERESTS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *General rule.* Section 811 (e) (relating to joint interests) is amended as follows:

(1) By striking out "(e) *Joint Interests.—*" and inserting in lieu thereof "(e) *Joint and community interests.*—(1) Joint interests.—".

(2) By inserting at the end thereof the following new paragraph:

(2) *Community interests.* To the extent of the interest therein held as community property by the decedent and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse. In no case shall such interest included in the gross estate of the decedent be less than the value of such part of the community property as was subject to the decedent's power of testamentary disposition.

(c) *Cross reference.* For treatment of life insurance acquired with community property, see amendment to section 811 (g) made by section 404 of this Act.

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 13. Section 81.22 is amended by inserting at the end thereof those paragraphs of § 81.23 (prior to its amendment by paragraph 14 of this Treasury decision) which follow the heading "*Taxable portion.—*", and the following paragraph:

For the purpose of determining the taxable portion to be included in accordance with the above rules in the gross estate of a decedent who died after October 21, 1942, where the joint tenancy or tenancy by the entirety was created by the transfer of property held as community property by such decedent and his spouse, such decedent is considered as the original owner of all of the community property so transferred, except such part thereof as may be shown to have been received as compensation for personal services rendered by his spouse or derived originally from such compensation or from such separate property of such spouse. Thus, if in the case of a decedent who died after October 21, 1942, property held as community property by such decedent and his spouse was transferred to themselves as joint tenants or as tenants by the entirety, the entire value of such property at the time of the decedent's death is includible in his gross estate, with the exception stated in the preceding sentence. With respect to the meaning of property derived originally from such compensation or from separate property of the spouse and to the identification required, see § 81.23.

PAR. 14. Section 81.23 is amended to read as follows:

§ 81.23 *Community property.* In the case of estates of decedents dying after October 21, 1942, the gross estate includes the entire community property held by the decedent and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the spouse or derived originally from such compensation or from separate property of the spouse. Section 811 (e) (2) also provides that in no case shall such interest included in the gross estate of the decedent be less than the value of such part of the community property as was subject to the decedent's power of testamentary disposition.

Property derived originally from compensation for personal services actually rendered by the spouse or from separate property of the spouse includes property that may be identified as (1) income yielded by property received as such compensation or by such separate property, and (2) property clearly traceable (by reason of acquisition in exchange, or other derivation) to property received as such compensation, to such separate property, or to such income. The rule established by this statute for apportioning the respective contributions of the spouses is applicable regardless of varying local rules of apportionment, and State presumptions are not operative against the Commissioner. The burden of identifying the property which may be excluded from the community interest rests upon the executor.

As to the inclusion of transfers of community property during life, see § 81.15, and for treatment of life insurance acquired with community property, see §§ 81.25 and 81.27.

PAR. 15. There is inserted immediately after section 802 of the Internal Revenue Code and preceding section 302 (f) of the Revenue Act of 1926 (as originally enacted), as set forth preceding § 81.24, the following:

SEC. 403. POWERS OF APPOINTMENT. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *General rule.* Section 811 (f) (relating to powers of appointment) is amended to read as follows:

(f) *Powers of appointment.*

(1) *In general.* To the extent of any property (A) with respect to which the decedent has at the time of his death a power of appointment, or (B) with respect to which he has at any time exercised or released a power of appointment in contemplation of death, or (C) with respect to which he has at any time exercised or released a power of appointment by a disposition intended to take effect in possession or enjoyment at or after his death, or by a disposition under which he has retained for his life or any period not ascertainable without reference to his death or for any period which does not in fact end before his death (i) the possession or enjoyment of, or the right to the income from, the property, or (ii) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

(2) *Definition of power of appointment.* For the purposes of this subsection the term "power of appointment" means any power to appoint exercisable by the decedent, either alone or in conjunction with any person, except

(A) a power to appoint within a class which does not include any others than the spouse of the decedent, spouse of the creator of the power, descendants of the decedent or his spouse, descendants (other than the decedent) of the creater of the power or his spouse, spouses of such descendants, donees described in section 812 (d), and donees described in section 861 (a) (3). As used in this subparagraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse; and

(B) a power to appoint within a restricted class if the decedent did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest, and if the power is not exercisable to any extent for the benefit of the decedent, his estate, his creditors, or the creditors of his estate.

If a power to appoint is exercised by creating another power to appoint, such first power shall not be considered excepted under subparagraph (A) or (B) from the definition of power of appointment to the extent of the value of the property subject to such second power to appoint. For the purposes of the preceding sentence the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint.

(3) *Date of existence of power.* For the purposes of this subsection the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

* * * * *

(d) *Powers with respect to which amendments not applicable.* (1) The amendments made by this section shall not apply with respect to a power to appoint, created on or before the date of the enactment of this Act, which is other than a power exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of the enactment of this Act.

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

(3) The amendments made by this section shall not apply with respect to any power to appoint created on or before the date of the enactment of this Act if it is released before January 1, 1943, or within the time limited by paragraph (2) in cases to which such paragraph is applicable; or if the decedent dies before January 1, 1943, or within the time limited by paragraph (2) in cases to which such paragraph is applicable, and such power is not exercised.

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

JOINT RESOLUTION. (Public Law 809, 77th Congress, enacted December 17, 1942.)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 (d) (3) of the Revenue Act of 1942 is amended by striking out "January 1, 1943" wherever it appears and inserting in lieu thereof "July 1, 1943" * * *.

PAR. 16. Section 81.24 is amended as follows:

(A) By striking out the heading *"Property passing under general power of appointment"* and by inserting in lieu thereof *"Property subject to power of appointment by decedent".*

(B) By inserting immediately before the first sentence thereof, the following:

(a) *Estates of decedents dying on or before October 21, 1942.* The regulations prescribed under this paragraph are applicable only with respect to estates of decedents who died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942.

(C) By striking from the second sentence of the second paragraph "or his creditors" and by inserting in lieu thereof "his creditors, or the creditors of his estate."

(D) By inserting immediately after the second sentence of the second paragraph thereof, the following sentence:

A power of appointment exercisable to meet the estate tax, and any other taxes, debts, or charges which are enforceable against the estate is included within the meaning of a power of appointment exercisable in favor of the decedent's estate or the creditors of his estate.

(E) By inserting at the end thereof, the following:

(b) *Estates of decedents dying after October 21, 1942.* The regulations prescribed under this subsection are applicable only with respect to estates of decedents who died after October 21, 1942, the date of enactment of the Revenue Act of 1942.

(1) *In general.* With the exceptions stated under (2) and (3) hereunder, section 811 (f) of the Internal Revenue Code, as amended by section 403 of the Revenue Act of 1942, requires the inclusion in the gross estate of a decedent who died after October 21, 1942, of the value of all property with respect to which he has at the time of his death any power of appointment exercisable by him, including any power exercisable by him in conjunction with any person. The value of such property is includible in the gross estate whether or not the power is exercised. The statute also requires, except as stated hereunder and except in case of a bona fide sale for an adequate and full consideration in money or money's worth, the inclusion in the gross estate of property with respect to which the decedent has, either alone or in conjunction with any person, at any time exercised or released any such power (i) in contemplation of death, (ii) with the intention that the disposition shall take effect in possession or enjoyment at or after his death, (iii) with the retention or reservation by the decedent for his life or any period not ascertainable without reference to his death or for any period which does not in fact and before his death (A) of the use, possession, right to the income, or other enjoyment of the property or (B) of the right, either alone or in conjunction with any person, to designate the person or persons who shall possess or enjoy the property or the income therefrom. For example, if a decedent who has a life estate in property with power to appoint the remainder, releases such power during his lifetime and after June 30, 1943, the value of such property is includible in his gross estate. Similarly, if such decedent had, instead, exercised the power at any time by appointing the remainder to his wife if she survives him, otherwise to his estate, the value of such property is includible in his gross estate.

The term "power of appointment" includes all powers which are in substance and effect powers of appointment regardless of the nomenclature used in creating the power and local property law connotations. For example, if a settlor transfers property in trust for the life of his wife, with a power in the wife to appropriate or consume the principal of the trust, the wife has a power of appointment. Another example is a case in which A transfers property in trust for the life of his son B, directing that the income be paid to B and that B shall have a power exercisable at any time to alter, amend, revoke, or terminate the trust in any respect but only with the consent of the trustee. Upon the death of B, the entire value of the property is includible in B's gross estate. Assuming that the trustee is a disinterested third party not receiving any beneficial interest upon such transfer, the value of the property is not includible in his personal estate if he should predecease B. Similarly, if property is transferred in trust by a grantor reserving the power to alter, amend, revoke or terminate the trust with the consent of the trustee who is a disinterested party not receiving any beneficial interest upon the transfer, the value of the property is not includible in such trustee's personal estate if he should predecease the grantor. Ordinarily, powers of management with respect to property in trust, such as the determination of whether distributions shall be annually or quarterly, the making of investments and reinvestments, or the determination of items of income and principal under recognized rules of accounting, are not powers of appointment over property under section 811 (f).

Section 811 (f) applies also to powers to appoint, exercisable only during the decedent's lifetime and terminable at his death. A power of appointment shall be considered to exist on the date of the decedent's death where the time for the exercise of the power is determined by the date of his death. It shall be considered to exist on the date of the decedent's death even though its exercise is subject to a precedent giving of notice or even though the exercise takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

A release of a power of appointment need not be express or formal in character. For example, the failure to exercise a power of appointment within a specified time, resulting in the termination of the power, is taxable if the other conditions of taxability prescribed in section 811 (f) are present. A power to appoint is exercised where the property subject thereto is appointed to the taker in default of appointment, regardless of whether or not the appointed interest and the interest in default of appointment are identical, and regardless of whether or not the appointee renounces any right to take under the appointment.

(2) *Powers to appoint excepted from general provisions.* Section 811 (f) (2) excepts from the general provisions of section 811 (f) (1) two classes of powers to appoint which the decedent either had at the time of his death or had exercised or released during his life. The decedent has an excepted power if the power to appoint is not exercisable to any extent for the benefit of the decedent, his estate, his creditors, or the creditors of his estate and if it is exercisable in favor of only one or more other persons or objects (i) within a class which does not include any others than the spouse of the decedent, spouse of the creator of the power, descendants of the decedent or his spouse, descendants of the creater of the power or his spouse, spouses of such descendants, and charitable, etc., organizations described in sections 812 (d) and 861 (a) (3), or (ii) within a restricted class if the decedent did not receive any beneficial interest, vested or contingent, in the property

from the creator of the power or thereafter acquire any such interest.

With respect to the power referred to in the preceding paragraph under (i), the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse. The treatment of adopted and illegitimate descendants as descendants within the terms of such excepted power is intended to include adopted and illegitimate children (and their descendants and their adopted and illegitimate children) as descendants, if such children would be descendants had they been born as legitimate children in the station to which they are adopted or born.

A power to appoint within a restricted class applies to a power possessed by a disinterested trustee or one occupying a similar status to appoint within a relatively small class. For example, a power to appoint to a class composed of A's children would be a power to appoint within a restricted class, but a power to appoint to anyone except A and his family would not be a power confined to a restricted class. The restricted character of a class is not affected by the fact that the decedent has power to appoint to any number of appointees (charitable, etc., organizations) described in sections 812 (d) and 861 (a) (3). A power to appoint is not confined to a restricted class merely because it is not exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, or all of them.

If a power to appoint is exercised by creating another power to appoint, to the extent of the value of the property subject to such second power to appoint, the property subject to such first power shall not be considered excepted or excluded from inclusion in the gross estate. For this purpose, the statute prescribes that the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint. Thus, if the decedent has a power to appoint a fund of $100,000 within a class consisting only of his children (which is one of the excepted powers) and by his will exercises such power by giving one child a power to appoint $25,000 of such fund and by making an outright appointment of $75,000, only $25,000 is includible in the decedent's gross estate. If, however, the decedent had appointed the income from the entire fund to such child for life with power in such child to appoint the remainder in his will, the whole $100,000 would be included in the decedent's gross estate. Under section 811 (f) (2), this provision is applicable whether or not the newly created power to appoint falls within either of the two excepted classes of powers.

(3) *Exceptions applicable to powers of appointment created on or before October 21, 1942.* The amendments made by section 403 of the Revenue Act of 1942 (as amended by the Joint Resolution of December 17, 1942) are applicable with respect to powers of appointment created on or before October 21, 1942, the date of enactment of such Revenue Act, except in the case of the following:

(i) The release, or possession at death without exercise, of a power of appointment which is other than a power exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate. This exception does not apply if such power is exercised after October 21, 1942 (see (2) of this section).

(ii) The release, or possession at death without exercise, of a power of appointment which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if on October 21, 1942 the decedent was under a legal disability to release such power and if the release thereof is effected, or the decedent dies, prior to the day after the expiration of six months immediately following the termination of such legal disability.

(iii) The release, or possession at death without exercise, of any such power of appointment if such release is effected, or the decedent dies, before July 1, 1943. It is presumed that all general powers of appointment are releasable, unless the local law on the subject is to the contrary; and it is presumed that the method employed to release the power is effective, unless it is not in accordance with the local law on the subject (or, in the absence of such local law, is not in accordance with the local law relating to similar transactions). The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that a power of appointment of the type possessed by the decedent actually was not generally releasable under the local law does not place the decedent under a legal disability within the meaning of section 403 (d) (2) of the Revenue Act of 1942. Until the termination of the present war, an individual in active service in the military or naval forces of the United States on October 21, 1942, shall be considered under a legal disability to release a power to appoint while such individual is in such service.

In the case of a power created on or before October 21, 1942 which was not exercised prior to July 1, 1943, such power will be considered an excepted power under section 811 (f) (2) (A) or (B) if on July 1, 1943 or, in the case of a decedent dying prior to July 1, 1943, if at the date of the decedent's death, the requirements of section 811 (f) (2) (A) or (B) are satisfied. If in such case, however, the decedent was under a legal disability on October 21, 1942, as described in the preceding paragraph, the day after the expiration of six months immediately following the termination of such legal disability shall, if such date is later than July 1, 1943, be substituted for "July 1, 1943" in applying the rule stated in the preceding sentence. For the purpose of determining whether a power created on or before October 21, 1942, satisfies the requirements of section 811 (f) (2) (B) on July 1, 1943 (or other applicable date determined under the preceding two sentences), the fact as to whether the decedent received any beneficial interest in the property is to be ascertained without regard to the power to appoint which the decedent received.

The fact that a power is exercised or released only in part, so that at some time the power could be exercised only in favor of donees described in section 811 (f) (2) (A) or (B), does not preclude the value of the property subject to the power from being included in the decedent's gross estate under section 811 (f) (1) if such power was not a power described in section 811 (f) (2) (A) or (B) on the following applicable date:

(A) The date of creation of the power, in the case of a power created after October 21, 1942;

(B) July 1, 1943, in the case of a power created on or before October 21, 1942, except where on October 21, 1942 the decedent was under a legal disability heretofore described and the day after the expiration of six months immediately following the termination of the period of legal disability is later than July 1, 1943; or

(C) The day after the expiration of six months immediately following the termination of the period of legal disability heretofore described if such day is later than July 1, 1943, in the case of a power created on or before October 21, 1942, where on October 21, 1942 the decedent was under such legal disability.

For example, if a decedent who has a general power of appointment reduces such power after June 30, 1943 (or on or after the day specified in (C) of this paragraph in a case described in (C) to a power to appoint within one of the excepted classes described in section 811 (f) (2) (A) or (B), the value of the property subject to the power is includible in his gross estate under section 811 (f) (1) (B) or (C).

(4) *Instruments to be filed with return.* Duplicate copies of the instrument granting the power and, if the power was exercised or released by an instrument, such instrument, one of each to be certified or verified, must be filed with Form 706 in all cases, unless the decedent was a nonresident, in which case only one copy of each instrument, certified or verified, is required. The copies must be filed even though it is contended that the power was an excepted one under section 811 (f) (2) (A) or (B) and the property is not returned for tax.

PAR. 17. There is inserted immediately preceding § 81.25 the following:

SEC. 404. PROCEEDS OF LIFE INSURANCE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *General rule.* Section 811 (g) (relating to life insurance) is amended to read as follows:

(g) *Proceeds of life insurance.*—

(1) *Receivable by the executor.*—To the extent of the amount receivable by the executor as insurance under policies upon the life of the decedent.

(2) *Receivable by other beneficiaries.* To the extent of the amount receivable by all other beneficiaries as insurance under policies upon the life of the decedent (A) purchased with premiums, or other consideration, paid directly or indirectly by the decedent, in proportion that the amount so paid by the decedent bears to the total premiums paid for the insurance, or (B) with respect to which the decedent possessed at his death any of the incidents of owner-

ship, exercisable either alone or in conjunction with any other person. For the purposes of clause (A) of this paragraph, if the decedent transferred, by assignment or otherwise, a policy of insurance, the amount paid directly or indirectly by the decedent shall be reduced by an amount which bears the same ratio to the amount paid directly or indirectly by the decedent as the consideration in money or money's worth received by the decedent for the transfer bears to the value of the policy at the time of the transfer. For the purposes of clause (B) of this paragraph, the term "incident of ownership" does not include a reversionary interest.

(3) *Transfer not a gift.* The amount receivable under a policy of insurance transferred, by assignment or otherwise, by the decedent shall not be includible under paragraph (2) (A) if the transfer did not constitute a gift, in whole or in part, under Chapter 4, or, in case the transfer was made at a time when Chapter 4 was not in effect, would not have constituted a gift, in whole or in part, under such chapter had it been in effect at such time.

(4) *Community property.* For the purposes of this subsection, premiums or other consideration paid with property held as community property by the insured and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered to have been paid by the insured, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse; and the term "incidents of ownership" includes incidents of ownership possessed by the decedent at his death as manager of the community.

* * * * *

(c) *Decedents to which amendments applicable.* The amendments made by subsection (a) shall be applicable only to estates of decedents dying after the date of the enactment of this Act; but in determining the proportion of the premiums or other consideration paid directly or indirectly by the decedent (but not the total premiums paid) the amount so paid by the decedent on or before January 10, 1941, shall be excluded if at no time after such date the decedent possessed an incident of ownership in the policy.

PAR. 18. Section 81.25 is amended to read as follows:

§ 81.25 *Life insurance.* Section 811 (g) provides for the inclusion in the gross estate of insurance on the decedent's life (a) receivable by or for the benefit of the estate (for which see § 81.26), and (b) receivable by other beneficiaries (for which see § 81.27).

The term "insurance" refers to life insurance of every description, including death benefits paid by fraternal beneficial societies operating under the lodge system.

Life insurance not includible in the gross estate under the provisions of paragraph (g) of section 811 and §§ 81.26, 81.27, or this section may, depending upon the facts of the particular case, be includible under some other paragraph of section 811 and the sections of these regulations pertaining thereto. Thus in the case of insurance upon his own life which the decedent fully paid up prior to January 10, 1941, the date of Treasury Decision 5032, and which he gratuitously transferred prior to such date in contemplation of death, the insurance proceeds are includible in his gross estate under section 811 (c). Similarly, in the case of a decedent who never paid any premiums upon an insurance policy upon his life but possessed incidents of ownership therein (other than a reversionary interest), if he gratuitously transferred all rights in such policy in contemplation of death or gratuitously made a transfer of such rights reserving a reversionary interest whereby the proceeds are made payable to his estate if the transferees (or beneficiaries) do not survive him, the proceeds are includible in his gross estate under section 811 (c).

PAR. 19. Section 81.27 is amended to read as follows:

§ 81.27 *Insurance receivable by other beneficiaries—(a) In case of decedent dying after October 21, 1942.* The regulations prescribed under this paragraph (except as otherwise indicated herein or in paragraph (b) of this section) are applicable only in the case of decedents who died after October 21, 1942, the date of the enactment of the Revenue Act of 1942. In such cases, the amount of the aggregate proceeds of all insurance on the life of the decedent not receivable by or for the benefit of his estate must also be included in his gross estate, as follows:

(1) Such insurance (not includible under (2) of this paragraph) purchased with premiums, or other consideration, paid directly or indirectly by the decedent, in the proportion that the amount so paid by the decedent bears to the total premiums paid for the insurance, and

(2) Such insurance with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any person.

The purchase of insurance upon the life of the decedent is attributed to the decedent even though the premiums, or other consideration, are paid only indirectly by the decedent. As thus used, the phrase "paid indirectly by the decedent" is intended to be broad in scope. For example, if the decedent transfers funds to his wife so that she may purchase insurance on his life, and she purchases such insurance, the payments are considered to have been made by the decedent even though they are not directly traceable to the precise funds transferred by the decedent. A decedent similarly pays the premiums or other consideration if payment is made by a corporation which is his alter ego or by a trust whose income is taxable to him, as, for example, a funded insurance trust. A payment is also made by the decedent if the decedent's employer makes the payment as compensation for services.

For the purposes of this paragraph, premiums or other consideration paid with property held as community property by the insured and spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered to have been paid by the insured, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the decedent's spouse or derived originally from such compensation or from separate property of such spouse. With respect to the meaning of property derived originally from such compensation or from separate property of the decedent's spouse, referred to in the preceding sentence, and to the identification required, see § 81.23.

The amount receivable under a policy of insurance transferred, by assignment or otherwise, by the decedent shall be includible under (1) of this paragraph if the transfer constituted a gift to any extent under chapter 4 of the Internal Revenue Code, or, in case the transfer was made at a time when such chapter was not in effect, would have constituted a gift to any extent under such chapter had it been in effect at such time. The determination of whether a transfer constitutes (or would have constituted) a gift to any extent under chapter 4 is to be made with respect to the concept of gifts under chapter 4 and not with respect to the taxability of a particular transfer as a gift under chapter 4 by reason of the amount of any exclusion or specific exemption allowed under such chapter. Thus, if the decedent transferred a policy to his creditors in consideration of the discharge of his obligations, and there was no element of donative intent in the transfer, no part of the proceeds would be includible in the gross estate. If the transfer conforms to any extent to the concept of a gift under chapter 4, the formula stated in the next paragraph for determining the portion of the proceeds includible in the gross estate is applicable.

For the purpose of determining the portion of the insurance purchased by the decedent where the decedent transferred, by assignment or otherwise, a policy of insurance, the amount paid directly or indirectly by the decedent shall be reduced by an amount which bears the same ratio to the amount paid directly or indirectly by the decedent before such transfer as the consideration in money or money's worth received by the decedent for the transfer bears to the value of the policy at the time of the transfer. For example, assume the decedent purchased for a single premium of $600 an insurance policy paying $1,200 upon his death. If at a time when the replacement cost of the same or a similar policy is $900, the decedent gives such policy to his wife for a partial consideration of $600, the $600 premium originally paid by the decedent would be reduced by an amount which bears the same ratio to $600 (the amount paid by the decedent) as $600 (the consideration paid by the wife) bears to $900, or by $400. Therefore, the decedent will be considered to have paid $200 in premiums and 200/600 of the $1,200 proceeds, or $400, will be included in his gross estate.

For the purposes of (1) of this paragraph, in determining the proportion of the premiums or other consideration paid directly or indirectly by the decedent (but not the total premiums paid) the amount so paid by the decedent on or before January 10, 1941, shall be ex-

cluded if at no time after such date the decedent possessed an incident of ownership in the policy. For the purpose of the preceding sentence a reversionary interest is an incident of ownership. For a description of this and other incidents of ownership, see the following paragraph and paragraph (b) of this section.

For the purposes of this section, the term "incidents of ownership" is not confined to ownership in the technical legal sense. For example, a power to change the beneficiary reserved to a corporation of which the decedent is sole stockholder is an incident of ownership in the decedent. For the purposes of this subsection, the term "incidents of ownership" includes the incidents of ownership described in paragraph (b) (except as provided in the next sentence) and, in addition, includes incidents of ownership possessed by the decedent as manager of the community where the insurance policy is property held as community property by the decedent and spouse. Section 811 (g) (2), as added by the Revenue Act of 1942, expressly provides that for the purposes of section 811 (g) (2) (B), (see (2) of this paragraph) but not for the purposes of section 811 (g) (2) (A), (see (1) of this paragraph), the term "incidents of ownership" does not include a reversionary interest. However, an assignment of an insurance policy by a decedent possessing other incidents of ownership therein under which he reserves a reversionary interest may result in the proceeds of the policy being includible in his gross estate under section 811 (c). See § 81.25.

(b) *In case of decedent dying on or before October 21, 1942.* The regulations prescribed under this paragraph (except as otherwise indicated herein or in paragraph (a) of this section) are applicable only in the case of decedents who died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942. In such cases, the amount in excess of $40,000 of the aggregate proceeds of all insurance on the decedent's life not receivable by or for the benefit of his estate must be included in his gross estate, as follows:

(1) To the extent to which such insurance was taken out by the decedent upon his own life (see next paragraph) after January 10, 1941, the date of Treasury Decision 5032, and

(2) To the extent to which such insurance was taken out by the decedent upon his own life (see next paragraph) on or before January 10, 1941, and with respect to which the decedent possessed any of the incidents of ownership at any time after such date, or, in the case of a decedent dying on or before such date, at the time of his death.

If the decedent died on or before October 21, 1942, insurance receivable by beneficiaries other than the estate is includible under the provisions of section 811 (g) only to the extent that it was taken out by the decedent upon his own life. Such insurance is considered to have been taken out by the decedent where he paid, either directly or indirectly, all the premiums or other consideration wherewith the insurance was acquired, whether or not he made the application for such insurance. Such insurance is not considered to have been so taken out, even though the application was made by the decedent, if no part of the premiums or other consideration was paid either directly or indirectly by him. Where a portion of the premiums or other consideration was actually paid by another and the remaining portion by the decedent, either directly or indirectly, such insurance is considered to have been taken out by the latter in the proportion that the payments therefor made by him bear to the total amount paid for the insurance. For examples of indirect payments by the decedent, see paragraph (a), and, for computation of the proportion referred to in the preceding sentence, see paragraph (a) and the example at the end of this paragraph.

Incidents of ownership in the policy include, for example, the right of the insured or his estate to its economic benefits, the power to change the beneficiary, to surrender or cancel the policy, to assign it, to revoke an assignment, to pledge it for a loan, or to obtain from the insurer a loan against the surrender value of the policy, etc. The insured possesses an incident of ownership if his death is necessary to terminate his interest in the insurance, as, for example, if the proceeds would become payable to his estate, or payable as he might direct, should the beneficiary predecease him.

The estate is entitled to only one exemption of $40,000 in cases to which this subsection applies. For instance, if the decedent left life insurance otherwise includible under the provisions of this subsection and payable to three such beneficiaries in amounts of $10,000, $40,000, and $50,000 (total, $100,000), the full amount should be listed on the return and therefrom subtracted the $40,000 exemption as provided in the appropriate schedule of Form 706. The word "beneficiaries", as used in reference to this $40,000 exemption, means persons entitled to the actual enjoyment of the insurance money.

Example. Insurance on the life of a decedent who died after January 10, 1941, the date of Treasury Decision 5032, and before October 22, 1942, the day after the enactment of the Revenue Act of 1942, totaled $200,000. It was payable to his son as beneficiary and the decedent never possessed any of the incidents of ownership therein. Premiums aggregating $100,000 were paid for the insurance, of which the decedent paid $50,000 before the date of Treasury Decision 5032 and $30,000 after that date. The remaining premiums of $20,000 were paid by the son. The extent to which the insurance was taken out by the decedent after the date of the Treasury decision is the proportion of $200,000 that the amount of the premiums paid by him after such date, $30,000, bears to the total amount of the premiums paid for the insurance, $100,000. Such proportion is three-tenths of $200,000, or $60,000. As the decedent possessed none of the incidents of ownership in the insurance at any time after the date of the Treasury decision, $100,000 of the insurance, the extent to which it was taken out by the decedent before such date $\left\{\frac{\$50,000 \times \$200,000}{\$100,000}\right\}$, is excluded from the estate. The amount of $40,000, the extent to which the insurance was not taken out by the decedent $\left\{\frac{\$20,000 \times \$200,000}{\$100,000}\right\}$, is also excluded from the gross estate. The amount of the insurance taken out by the decedent after the date of the Treasury decision, $60,000, is reduced by $40,000, the special insurance exemption, and the amount of the insurance included in the gross estate is $20,000.

Par. 20. There is inserted immediately preceding § 81.29, the following:

SEC. 405. DEDUCTIONS NOT ALLOWABLE IN EXCESS OF CERTAIN PROPERTY OF ESTATE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *General rule.* Section 812 (b) (relating to estate tax deductions) is amended by inserting after the second sentence the following new sentences: "There shall be disallowed the amount by which the deductions specified in paragraphs (1), (2), (3), (4), and (5) exceed the value, at the time of the decedent's death, of property subject to claims. For the purposes of this section the term 'property subject to claims' means property includible in the gross estate of the decedent which, or the avails of which, would, under the applicable law, bear the burden of the payment of such deductions in the final adjustment and settlement of the estate; and, for the purposes of this definition, the value of the property shall be reduced by the amount of the deduction under the next sentence attributable to such property."

* * * * *

SEC. 406. CHARITABLE PLEDGES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Pledges in case of citizens.* Section 812 (b) (relating to deductions in computing net estate) is amended by inserting before the period at the end of the second sentence thereof the following: "; except that in any case in which any such claim is founded upon a promise or agreement of the decedent to make a contribution or gift to or for the use of any donee described in subsection (d) for the purposes specified therein, the deduction for such claim shall not be so limited, but shall be limited to the extent that it would be allowable as a deduction under subsection (d) if such promise or agreement constituted a bequest".

* * * * *

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.* Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000".

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 21. Section 81.29 is amended as follows:

(A) By changing the next to the last sentence of the first paragraph to read as follows:

If a claim against the estate, an unpaid mortgage, or an indebtedness is founded upon a promise or agreement, the deduction therefor is limited to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or money's worth, except that in the case of a decedent who died after October 21, 1942, any such enforceable claim founded upon a promise or agree-

ment of the decedent to make a contribution or gift to or for the use of any donee described in section 812 (d) (charitable, etc., organizations) for the purposes specified therein is deductible to the extent that it would be deductible under section 812 (d) if such promise or agreement constituted a bequest. See § 81.36.

(B) By inserting immediately after the first paragraph the following paragraph:

In case the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, the amount by which the deductions specified in paragraphs (1), (2), (3), (4), and (5) of section 812 (b) exceed the value of property includible in the gross estate subject to claims shall be disallowed. "Property subject to claims" is the property includible in the gross estate which, or the avails of which, under the applicable law, would bear the burden of the payment of such deductions in the final adjustment and settlement of the estate; and, for the purposes of this definition, the value of property subject to claims shall be first reduced by the amount of the deduction allowed for estate tax purposes for any losses, incurred during the settlement of the estate from fires, storms, shipwrecks, or other casualties, or from theft, attributable to such property. For example, if an item of property is included in such a decedent's gross estate at a value of $5,000 upon which there is an unpaid mortgage for $10,000, the excess of which is not enforceable against other property of the estate, the amount of the mortgage is allowable as a deduction only to the extent of $5,000. Likewise, in such a case where the gross estate is composed of real estate valued at $100,000, and proceeds of life insurance in the amount of $100,000 exempt from general claims, if the only deductions under section 812 (b) are claims of creditors totaling $200,000, only $100,000 of such claims is allowable as deductions.

PAR. 22. Section 81.36 is amended by striking out the fourth and fifth sentences and by inserting in lieu thereof the following:

Except as hereinafter stated, if the claim is founded upon a promise or agreement, the deduction therefor is limited to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or money's worth. A pledge or a subscription, evidenced by a promissory note or otherwise, even though enforceable against the estate, is deductible only to the extent that liability therefor was contracted bona fide and for an adequate and full consideration in cash or its equivalent, except that if the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, a pledge or a subscription enforceable against the estate is deductible if the decedent's promise or agreement was to make a contribution or gift to or for the use of any donee described in section 812 (d) (charitable, etc., organizations) for the purposes specified in such section, but such deduction is limited to the extent that it would be allowable under section 812 (d) if such promise or agreement constituted a bequest.

PAR. 23. There is inserted immediately preceding § 81.41 the following:

SEC. 405. DEDUCTIONS NOT ALLOWABLE IN EXCESS OF CERTAIN PROPERTY OF ESTATE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Prior taxed property.* The second sentence of the second paragraph of section 812 (c) (relating to deduction for prior taxed property) is amended to read as follows: "The deduction under this subsection shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under subsections (a) and (d) and the amounts of general claims allowed as deductions under subsection (b) as the amount otherwise deductible under this subsection bears to property subject to general claims. If the property includible in the gross estate to which the deduction under this subsection is attributable is not wholly property subject to general claims—

(1) Before the application of the preceding sentence, the amount of the deduction under this subsection shall be reduced by that part of such amount as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to claims but not to general claims is of the value, at the time of the decedent's death, of such property, and

(2) In the application of the preceding sentence in reducing the balance, if any, of such deduction, "the amount otherwise deductible under this subsection" shall be only that part of such amount otherwise deductible (determined without regard to clause (1) of this paragraph) as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to general claims is of the value, at the time of the decedent's death, of such property.

For the purposes of the two preceding sentences and this sentence, "general claims" are the amounts allowed as deductions under subsection (b) which, under the applicable law, in the final adjustment and settlement of the estate may be enforced against any property subject to claims, as defined in subsection (b), and "property subject to general claims" is the value, at the time of the decedent's death, of property subject to claims, as defined in subsection (b), reduced by the value, at the time of the decedent's death, of that part of such property against which amounts allowed as deductions under subsection (b) which are not general claims may be enforced, under the applicable law, in the final adjustment and settlement of the estate.

* * * * *

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.* Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000."

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 407. DEDUCTION ON ACCOUNT OF PROPERTY PREVIOUSLY TAXED. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amendments to Internal Revenue Code provisions relating to property previously taxed.* (1) The first paragraph of section 812 (c) is amended to read as follows:

(c) *Property previously taxed.* An amount equal to the value of any property (1) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (2) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. Property includible in the gross estate of the prior decedent under section 811 (f) and property included in total gifts of the donor under section 1000 (c) received by the decedent described in this subsection shall, for the purposes of this subsection, be considered a bequest of such prior decedent or gift of such donor. This deduction shall be allowed only where a gift tax imposed under Chapter 4, or under Title III of the Revenue Act of 1932, 47 Stat. 245, or an estate tax imposed under this chapter or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this subsection, section 861 (a) (2), or the corresponding provisions of any prior Act of Congress, in respect of the property or property given in exchange therefor.

(2) The first sentence of the second paragraph of section 812 (c) is amended to read as follows:

Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this subsection shall be reduced by the amount so paid.

* * * * *

(c) *Effective dates.*

(1) The amendments made by subsection (a) (1) shall be applicable to estates of decedents dying after the date of enactment of this Act, except that the reference therein to "an estate tax imposed under this chapter or any prior Act of Congress," shall be applicable with respect to estates of decedents dying after February 10, 1939.

(2) The amendment made by subsection (a) (2) shall be applicable with respect to estates of decedents dying after February 10, 1939.

* * * * *

PAR. 24. Section 81.41 is amended as follows:

(A) By inserting at the end of (*a*) (1) of the first paragraph the following sentence:

Section 812 (c), as amended by the Revenue Act of 1942, specifically provides that property includible in the gross estate of the prior decedent under powers of appointment (section 811 (f)) and property included in total gifts of the donor under a power of appointment (section 1000 (c)) received by the decedent (as the appointee under the exercise

of the power or as remainderman under the release, or nonexercise, of such power) shall, for the purposes of this deduction, be considered a bequest of such prior decedent or gift of such donor.

(B) By amending (*b*) (3) of the first paragraph to read as follows:

(3) If the decedent died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, the deduction is further reduced by the amount of that proportion of the deductions allowed under paragraphs (a), (b), and (d) of section 812 which the amount otherwise deductible for property previously taxed bears to the value of the decedent's gross estate. If the decedent died after October 21, 1942, the deduction (the amount ascertained after applying the limitations set forth in (*b*) (1) and (2) of this section of the regulations) is to be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (a) and (d) of section 812 and the amounts of general claims allowed as deductions under paragraph (b) of section 812 as the amount otherwise deductible for property previously taxed bears to property subject to general claims. However, before applying the rule in the preceding sentence, if the property previously taxed includible in the gross estate is not wholly subject to general claims, the amount otherwise deductible (the amount ascertained after applying the limitations set forth in (*b*) (1) and (2) of this section of the regulations) is first subject to further adjustments as hereinafter set forth.

(C) By striking from the second sentence of the second paragraph "A donor" and by inserting in lieu thereof "In 1941, a donor".

(D) By inserting immediately after the second paragraph the following paragraph:

Section 812 (c), as amended by the Revenue Act of 1942, provides for the allowance of the deduction for property previously taxed not only in cases where the basic estate tax had been paid upon the prior estate but also in cases where only the additional estate tax was paid upon the prior estate under the provisions of the Revenue Act of 1932 or chapter 3 of the Code. See § 81.96 with respect to provisions made for the refund or credit of overpayments in cases where such deductions had been disallowed.

(E) By changing the first sentence of the last paragraph thereof to read as follows:

Subchapter B provided in this case for a specific exemption of $40,000.

(F) By inserting at the end thereof the following paragraphs:

In the case of a decedent who died after October 21, 1942, the amount otherwise allowable as a deduction for property previously taxed is to be reduced, in a manner similar to that illustrated in the preceding two paragraphs, by the amount of other deductible items which may be allocated to the value of such property. However, under section 812 (c), as amended by section 405 (b) of the Revenue Act of 1942, in such cases there is taken into account the fact that, under the applicable law, in the final adjustment and settlement of the estate some deductions under section 812 (b) are claims enforceable first, or solely, against specified property, and the value, in whole or in part, of some property included in the gross estate (including the property previously taxed) is exempt from claims of creditors. Thus, in the case of decedents dying after October 21, 1942, if the property previously taxed includible in the gross estate is not wholly subject to general claims, the amount otherwise deductible (the amount ascertained after applying the limitations in (*b*) (1) and (2) of this section) is first reduced by that part of such amount as the value of the property previously taxed includible in the gross estate subject to claims but not to general claims bears to the total value of the property previously taxed includible in the gross estate. The balance, if any, of the amount of deduction thus obtained is then to be reduced by a proportionate part of the amount otherwise deductible determined from a ratio, such as that illustrated in the two preceding paragraphs but limited as provided in (*b*) (3) of this section in the case of decedents dying after October 21, 1942. For this purpose, "the amount otherwise deductible" is only that part of such amount otherwise deductible (the amount ascertained after applying the limitations in (*b*) (1) and (2) but not (3) of this section) as the value of the property previously taxed subject to general claims bears to the value of property previously taxed included in the gross estate. For the purposes of this section, "general claims" are those which may be enforced against any of the property subject to claims and "property subject to general claims" is the value of property subject to claims reduced by the value of that part of such property against which amounts allowed as deductions under section 812 (b) which are not general claims may be enforced in the final adjustment and settlement of the estate. For the purposes of this section, the "value" of property includible in the decedent's gross estate or of property subject to general claims is the value at the date of the decedent's death or, in case the executor elects a valuation date or dates subsequent to the date of death as authorized by section 811 (j), it is the value prescribed by § 81.11.

The application of the second paragraph of section 812 (c), as amended by section 405 (b) of the Revenue Act of 1942, may be illustrated by the following example:

Example. The gross estate and deductions allowable other than under section 812 (c) are as follows:

Gross estate:	
Decedent's residence	$25,000
Other real property	30,000
Proceeds of life insurance	50,000
Other property	105,000
Deductions:	
Specific exemption (basic estate tax)	100,000
Mortgage on decedent's residence	9,000
Mortgage on other real property	35,000
Funeral, administration, etc., expenses	4,000
Charitable bequests	6,000

The decedent's residence was inherited by him from his father who had died within five years prior to the decedent's death. Such residence had been included in the gross estate of the decedent's father at a value of $20,000. A Federal estate tax had been paid upon such prior estate. The mortgage of $9,000 was placed upon such residence since the death of the decedent's father. Under the local law, such residence is exempt from claims of creditors to the extent of $1,000 and the life insurance proceeds are fully exempt from claims of creditors. The mortgage of $35,000, after satisfaction out of the other real property subject thereto (having a value of $30,000), is enforceable against any other property in the estate. The amount otherwise deductible under section 812 (c), before reduction under the second paragraph of such section, is $20,000, the value of the residence included in the prior estate. The following steps are to be taken in reducing this amount:

First: Since the value of the property previously taxed is not wholly subject to general claims, the amount of $20,000 otherwise deductible is to be first reduced by that part thereof as the value of the property previously taxed includible in the gross estate subject to claims but not to general claims, $9,000, is of the total value of the property previously taxed includible in the gross estate, $25,000. This reduction is $9,000/$25,000 of $20,000, or $7,200. By subtracting such amount from $20,000, the balance is found to be $12,800.

Second: The balance of $12,800 is to be reduced further by the proportion of the deductions allowed under section 812 (a) and (d) and the general claims under section 812 (b) as the amount otherwise deductible bears to the value of property subject to general claims. For this purpose, "the amount otherwise deductible" is only that part of such amount otherwise deductible, determined before the application of the first step above, as the value of the property previously taxed subject to general claims is of the value of the property previously taxed includible in the gross estate. The property previously taxed subject to general claims is $15,000 ($25,000 minus the $9,000 mortgage and the $1,000 homestead exemption). Thus, the proportion is $15,000/$25,000 of $20,000 or $12,000, which represents "the amount otherwise deductible" for purposes of computing the further reduction. For the same purpose, the property subject to general claims is $120,000, the sum of $105,000, the value of "other property", and $15,000 the value of the "decedent's residence" in excess of the $9,000 mortgage and the $1,000 homestead exemption. General claims consist of $4,000 of "funeral, administration, etc., expenses" and $5,000 of the $35,000 mortgage, the extent to which such mortgage exceeds the value of the "other real property" subject thereto. These general claims total $9,000, and such amount plus the charitable bequests of $6,000 and the specific exemption of $100,000 equal $115,000. Therefore, using the amounts thus determined, the balance of $12,800 is to be reduced fruther by $12,000/$120,000 of $115,000, or by $11,500.

For the purpose of the basic estate tax, therefore, the deduction under section 812 (c) is $1,300 as shown below:

Amount otherwise deductible after applying limitations in (b) (1) and (2) of this section of the regulations		$20,000
Reduction by application of first limitation ($9,000/$25,000 of $20,000)		7,200
		12,800
Reduction by application of second limitation ($12,000/$120,000 of $115,000)		11,500
Amount deductible		1,300

For the purpose of the additional estate tax (computed with a specific exemption of $60,000 instead of $100,000) the deduction under section 812 (c) will be $5,300, computed by reducing the amount of $20,000, otherwise allowable, by the sum of $7,200 and $7,500. The latter amount, $7,500, is the product of $75,000 (the sum of $60,000+$5,000+, $4,000+$6,000) times $12,000/120,000.

PAR. 25. There is inserted immediately preceding § 81.44 the following:

SEC. 403. POWERS OF APPOINTMENT. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Deductions for charitable, etc., use.*—(1) *Amendment to section 812 (d)* Section 812 (d) (relating to deduction in case of estates of citizens or residents) is amended by inserting after the first sentence the following new sentence: "Property includible in the decedent's gross estate under section 811 (f) received by a donee described in this subsection shall, for the purposes of this subsection, be considered a bequest of such decedent."

* * * * *

SEC. 408. DEDUCTION FOR DISCLAIMED LEGACIES PASSING TO CHARITIES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Deduction in case of citizens and residents.* The first sentence of section 812 (d) (relating to the deduction for charitable, etc., bequests) is amended by inserting after "The amount of all bequests, legacies, devises, or transfers" the following: "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return)".

* * * * *

(c) *Estates with respect to which amendments applicable.* The amendments made by this section shall be applicable to estates of decedents dying after February 10, 1939.

SEC. 409. DENIAL OF DEDUCTION ON BEQUEST TO CERTAIN PROPAGANDA ORGANIZATIONS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Citizens and residents.* Section 812 (d) (relating to deduction for bequests, etc., to charity) is amended by inserting before the period at the end of the first sentence the following: ", and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation".

* * * * *

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.* Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000".

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 26. Section 81.44 is amended as follows:

(A) By inserting immediately preceding the period at the end of the first paragraph ", and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation".

(B) By inserting immediately after such first paragraph the following paragraphs:

The amount of the bequest, legacy, devise or transfer, for which a deduction is allowable under the provisions of this section, includes the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return. The disclaimer must not only be made prior to the date prescribed for the filing of the estate tax return (including such date as may be prescribed in an extension of time granted for the filing of such return), but must be irrevocable at the time the deduction is allowed. Ordinarily, a disclaimer made by a person not under any legal disability will be considered irrevocable when filed with the probate court. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. Thus, if the beneficiary uses these rights for his own purposes, as by receiving a consideration for his formal disclaimer, he has not refused the rights to which he was entitled. There can be no disclaimer after an acceptance of such rights, expressly or impliedly. The disclaimer of a power described in this paragraph is to be distinguished from the release or exercise of a power. In the case of the estate of the creator of a power, the release or exercise of the power by the donee of the power in favor of a person or object described in the preceding paragraph does not cause any deduction under this section of the value of the property subject to such power. See section 81.46.

Property includible in the gross estate under section 811 (f), relating to powers of appointment, received by a donee described in section 812 (d) is for the purposes of section 812 (d) considered a bequest of the decedent, whether or not the decedent died before, on, or after the date of enactment of the Revenue Act of 1942. This rule applies only where the donee described in section 812 (d) is the appointee under the exercise of the decedent's power or the remainderman upon the release (or nonexercise) of the power by the decedent.

PAR. 27. There is inserted immediately preceding § 81.48 the following:

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.* Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000".

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 28. Section 81.48 is amended by striking out the last two sentences and by inserting in lieu thereof the following sentences:

The specific exemption deductible in determining the net estate of a citizen or resident upon which the additional tax is imposed by section 935 of the Internal Revenue Code (subchapter B), and by such section as amended by section 414 of the Revenue Act of 1942, is $40,000 if the decedent died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, and $60,000 if the decedent died after October 21, 1942. For regulations relative to the specific exemption in the case of a nonresident not a citizen, see § 81.55.

PAR. 29. There is inserted immediately preceding § 81.51 the following:

SEC. 406. CHARITABLE PLEDGES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Pledges by nonresidents not citizens.* Section 861 (a) (1) (relating to deductions in computing net estate) is amended to read as follows:

(1) *Expenses, losses, indebtedness, and taxes.* That proportion of the deductions specified in section 812 (b) (other than the deductions described in the following sentence) which the value of such part bears to the value of his entire gross estate, wherever situated. Any deduction allowable under section 812 (b) in the case of a claim against the estate which was founded upon a promise or agreement but was not contracted for an adequate and full consideration in money or money's worth shall be allowable under this paragraph to the extent that it would be allowable as a deduction under paragraph (3) if such promise or agreement constituted a bequest.

SEC. 407. DEDUCTION ON ACCOUNT OF PROPERTY PREVIOUSLY TAXED. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amendments to Internal Revenue Code provisions relating to property previously taxed.*

* * * * *

(3) The first two sentences of section 861 (a) (2) are amended to read as follows:

(2) Property previously taxed.—An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. Property includible in the gross estate of the prior decedent under section 811 (f) and property included in total gifts of the donor under section 1000 (c) received by the decedent described in this paragraph shall, for the purposes of this paragraph, be considered a bequest of such prior decedent or gift of such donor. This deduction shall be allowed only where a gift tax imposed under Chapter 4, or under Title III of the Revenue Act of 1932, 47 Stat. 245, or an estate tax imposed under this chapter or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of

the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph; section 812 (c), or the corresponding provisions of any prior Act of Congress, in respect of the property or property given in exchange therefor.

* * * * *

(c) *Effective dates.*

* * * * *

(3) The amendments made by subsection (a) (3) shall be applicable to estates of decedents dying after the date of enactment of this Act, except that the reference therein to "an estate tax imposed under this chapter or any prior Act of Congress," shall be applicable with respect to estates of decedents dying after February 10, 1939.

* * * * *

SEC. 405. DEDUCTIONS NOT ALLOWABLE IN EXCESS OF CERTAIN PROPERTY OF ESTATE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(c) *Prior taxed property of nonresidents not citizens.* The next to the last sentence of section 861 (a) (2) (relating to deduction for prior taxed property of nonresidents not citizens of the United States) is amended to read as follows: "The deduction under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (3) and (4) and the amount of general claims allowed as deduction under paragraph (1) of this subsection as the amount otherwise deductible under this paragraph bears to property subject to general claims. If the property includible in the gross estate to which the deduction under the paragraph is attributable is not wholly property subject to general claims:

(A) before the application of the preceding sentence, the amount of the deduction under this paragraph shall be reduced by that part of such amount as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to claims but not to general claims is of the value, at the time of the decedent's death, of such property, and

(B) in the application of the preceding sentence in reducing the balance, if any, of such deduction, "the amount otherwise deductible under this paragraph" shall be only that part of such amount otherwise deductible (determined without regard to subparagraph (A)) as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to general claims is of the value, at the time of the decedent's death, of such property.

For the purposes of the two preceding sentences and this sentence, "general claims" are the amounts allowed as deductions under paragraph (1) of this subsection which, under the applicable law, in the final adjustment and settlement of the estate may be enforced against that part of any property subject to claims, as defined in subsection (b) of section 812 which at the time of the decedent's death is in the United States, and "property subject to general claims" is the value, at the time of the decedent's death, of such property subject to claims, reduced by the value, at the time of the decedent's death, of that part of such property subject to claims against which amounts allowed as deductions under paragraph (1) of this subsection which are not general claims may be enforced, under the applicable law, in the final adjustment and settlement of the estate.

SEC. 403. POWERS OF APPOINTMENT. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Deductions for charitable, etc., use.*

* * * * *

(2) *Amendment to section 861 (a) (3).* Section 861 (a) (3) (relating to deduction in case of estates of nonresidents not citizens) is amended by inserting after the first sentence the following new sentence: "Property includible in the decedent's gross estate under section 811 (f) received by a donee described in this paragraph shall, for the purposes of this paragraph, be considered a bequest of such decedent."

* * * * *

SEC. 408. DEDUCTION FOR DISCLAIMED LEGACIES PASSING TO CHARITIES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Deduction in case of nonresidents not citizens.* The first sentence of section 861 (a) (3) (relating to the deduction for charitable, etc., bequests) is amended by inserting after "The amount of all bequests, legacies, devises, or transfers" the following: "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return)".

(c) *Estates with respect to which amendments applicable.* The amendments made by this section shall be applicable to estates of decedents dying after February 10, 1939.

SEC. 409. DENIAL OF DEDUCTION ON BEQUEST TO CERTAIN PROPAGANDA ORGANIZATIONS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Nonresidents not citizens.* Section 861 (a) (3) (relating to deduction for bequests, etc., to charity) is amended by inserting before the period at the end of the first sentence the following: ", and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation."

SEC. 412. EXEMPTION OF ESTATES OF NONRESIDENTS NOT CITIZENS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Exemption.* Section 861 (a) (relating to deductions in case of estates of nonresidents not citizens) is amended by inserting at the end thereof the following new paragraph:

(4) Exemption.—An exemption of $2,000.

(b) *Technical amendment with respect to property previously taxed.* For technical amendment with respect to property previously taxed, see section 405 (c) of this Act.

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 30. Section 81.52 is amended by striking out subdivision (*a*) and by inserting in lieu thereof the following:

(*a*) In case the decedent died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, only that proportion of the aggregate deductions for administration expenses, claims, etc., is deductible which the value of that part of the gross estate situated (within the meaning of the statute) in the United States, bears to the value of the entire gross estate, wherever situated (see § 81.55), and any claim against decedent's estate founded upon a promise or agreement, even though for charitable uses, where the liability was not contracted for an adequate and full consideration in money or money's worth is not allowable. (See § 81.36.) In case the decedent died after October 21, 1942, only the proportion of the deductions specified in section 812 (b) (other than those deductions for claims hereinafter described) is deductible which the value of that part of the gross estate situated (within the meaning of the statute) in the United States bears to the value of decedent's entire gross estate wherever situated. If the decedent died after October 21, 1942, any claim against the estate founded upon an enforceable promise or agreement to make a contribution or gift to or for the use of any donee described in section 861 (a) (3) (charitable, etc., organizations) for the purposes specified in such section, where the liability was not contracted for an adequate and full consideration in money or money's worth, is allowable under section 861 (a) (1), as amended, to the extent that it would be allowable under section 861 (a) (3) if such promise or agreement constituted a bequest. (See § 81.36.)

PAR. 31. Section 81.53 is amended by striking out subparagraph (3) and by inserting in lieu thereof the following:

(3) In case the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, with respect to the third limitation involving property previously taxed, set forth under § 81.41 (*b*), wherever paragraph (a), (b), or (d) of section 812 is referred to, subparagraph (4), (1), or (3), respectively, of section 861 (a), as amended, should be substituted. In case the decedent died on or before October 21, 1942, instead of the amount of the deduction being reduced in accordance with the third limitation set forth under § 81.41 (*b*), the amount of the deduction is reduced by the proportion of the total other deductions, allowed under subparagraphs (1) and (3) of paragraph (a) of section 861, which the amount otherwise deductible for property previously taxed bears to the value of the part of the gross estate situated in the United States at the time of the decedent's death.

PAR. 32. Section 81.55 is amended as follows:

(A) By striking out the heading "*Determination of net estate*" and by inserting in lieu thereof the following:

Specific exemption and determination of net estate.

(a) *Specific exemption.* A specific exemption of $2,000 is deductible in the case of a nonresident not a citizen of the United States if such decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942. This exemption applies both for the purposes of the basic tax and the additional tax. No specific exemption is authorized in the case of a nonresident not a

citizen of the United States if such decedent died on or before October 21, 1942.

(b) *Determination of net estate.*

(B) By changing, in the original first paragraph, that part of the sentence which precedes the computation to read as follows:

If the decedent died on or before October 21, 1942, the following result is accordingly obtained:

(C) By inserting immediately after the computation the following sentence:

If the decedent died after October 21, 1942, an exemption of $2,000 is also deductible, resulting in a net estate of $143,000.

PAR. 33. There is inserted immediately preceding § 81.57 the following:

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.* Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000".

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 34. Section 81.57 is amended as follows:

(A) By changing the first sentence to read as follows:

A preliminary notice is required to be filed in the case of every citizen or resident whose gross estate exceeded $60,000 in value at the date of death, if the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, or $40,000 if the decedent died on or before such date.

(B) By striking out "$40,000" in the last sentence and by inserting in lieu thereof "$60,000 or $40,000, as the case may be".

PAR. 35. Section 81.60 is amended as follows:

(A) By changing the first sentence to read as follows:

In estates of nonresidents not citizens, notice on Form 705, copies of which may be obtained from the Commissioner of Internal Revenue, Washington, D. C., or from any collector of internal revenue, is required if any part of the gross estate was situated (see § 81.50) in the United States (1) provided, in the case of a decedent who died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, the part of the gross estate situated in the United States exceeded a value of $2,000 at the date of death, and (2) regardless of such value in the case of a decedent who died on or before October 21, 1942.

(B) By striking out the third sentence.

PAR. 36. Section 81.62 is amended by striking out the fourth and fifth sentences and by inserting in lieu thereof the following sentences:

Except as hereinafter stated, no domestic corporation or its transfer agent should transfer stock registered in the name of a nonresident decedent without first requiring a transfer certificate covering all of the decedent's stock of the corporation and showing that such transfer may be made without liability, and banks, trust companies and others in actual or constructive possession of property of nonresident decedents should require transfer certificates before transferring such property. If the decedent died after October 21, 1942, a transfer certificate is not required in case the total value, as of the date of the decedent's death, of the part of his gross estate situated in the United States is not in excess of $2,000. In the case of a decedent who died after October 21, 1942, such corporation, transfer agent, bank, trust company or other person will not incur liability for the transfer of such property without the issuance of a transfer certificate, if such corporation or other person first receives a statement from the executor or other responsible person, who may be reasonably regarded as in possession of the pertinent facts, showing that the total value, as of the date of the decedent's death, of the part of his gross estate situated in the United States is not in excess of $2,000, and if such corporation or other person has no information to the contrary.

PAR. 37. There is inserted immediately preceding § 81.63 the following:

SEC. 414. SPECIFIC EXEMPTION. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Amount of exemption.* Section 935 (c) (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "$40,000" and inserting in lieu thereof "$60,000".

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 38. Section 81.63 is amended by changing the first sentence to read as follows:

A return on Form 706 is required in the case of every citizen or resident, whose gross estate, as defined in the statute, exceeded $60,000 in value at the date of death if the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, or $40,000 if the decedent died on or before such date.

PAR. 39. There is inserted immediately preceding § 81.67 the following:

SEC. 412. EXEMPTION OF ESTATES OF NONRESIDENTS NOT CITIZENS. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(c) *Returns.* Section 864 (a) (1) (relating to returns of executors of estates of nonresidents not citizens) is amended to read as follows:

(1) *Returns by executor.* In the case of the estate of every nonresident not a citizen of the United States any part of whose gross estate situated in the United States exceeds the amount of the specific exemption provided in section 861 (a) (4), the executor shall make a return under oath in duplicate, setting forth (A) the value of that part of the gross estate of the decedent situated in the United States at the time of his death; (B) the deductions allowed under section 861; (C) the value of the net estate of the decedent as defined in section 861; (D) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 40. Section 81.67 is amended by striking out the first sentence and by inserting in lieu thereof the following sentences:

A return on Form 706 must be filed for the estate of every nonresident not a citizen any part of whose gross estate was situated (see section 81.50) in the United States, (1) provided, in the case of a decedent who died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, the part of the gross estate situated in the United States exceeded a value of $2,000 at the date of death, and (2) regardless of such value in the case of a decedent who died on or before October 21, 1942. Copies of Form 706 may be obtained from the Commissioner of Internal Revenue, Washington, D. C., or from any collector of internal revenue.

PAR. 41. There is inserted immediately preceding § 81.73 the following:

SEC. 413. PERIOD FOR FILING PETITION EXTENDED IN CERTAIN CASES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Period extended.* Section 871 (a) (1) (relating to period for filing petition with Board of Tax Appeals) is amended by inserting at the end thereof the following new sentence: "If the notice is addressed to an executor outside the States of the Union and the District of Columbia, the period specified in this paragraph shall be one hundred and fifty days in lieu of ninety days."

(b) *Effective date.* The amendment made by this section shall be applicable with respect to notices of deficiency mailed after the date of the enactment of this Act.

SEC. 504. CHANGE OF NAME OF BOARD OF TAX APPEALS. (Revenue Act of 1942, Title V, enacted October 21, 1942.)

(a) *The Tax Court of the United States.* Effective on the day after the date of enactment of this Act, section 1100 (relating to status of Board of Tax Appeals) is amended by inserting at the end thereof the following new sentence: "The Board shall be known as The Tax Court of the United States and the members thereof shall be known as the presiding judge and the judges of The Tax Court of the United States."

(b) *Powers, tenure, etc., unchanged.* The jurisdiction, powers, and duties of The Tax Court of the United States, its divisions and its officers and employees, and their appointment, including the designation of its officers

and the immunities, tenure of office, powers, duties, rights and privileges of the presiding judge and judges of The Tax Court of the United States shall be the same as by existing law provided in the case of the Board of Tax Appeals. The Commissioner shall continue to be represented by the same counsel in the same manner abefore the Court as he has heretofore been represented in proceedings before the Board of Tax Appeals and the taxpayer shall continue to be represented in accordance with rules of practice prescribed by the Court. No qualified person shall be denied admission to practice before such Court because of his failure to be a member of any profession or calling.

(c) *References.*—All references in any statute (except this section), or in any rule, regulation, or order, to the "Board of Tax Appeals" or to the "Board" when used in the sense of "Board of Tax Appeals", or to the "member", "members", or "chairman" thereof shall be considered to be made to The Tax Court of the United States, the judge, judges, and presiding judge thereof, respectively.

PAR. 42. Section 81.73 is amended by inserting at the end of the fourth paragraph the following:

If the registered letter is mailed after October 21, 1942, the date of the enactment of the Revenue Act of 1942, and is addressed to an executor outside the States of the Union and the District of Columbia, a period of 150 days (not counting Sunday or a legal holiday in the District of Columbia as the last day of the period) is authorized in which the executor may file a petition with the Board of Tax Appeals.

PAR. 43. There is inserted immediately preceding § 81.83 the following:

SEC. 403. POWERS OF APPOINTMENT. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(c) *Liability of recipient of property over which decedent had power of appointment.* Section 826 (relating to collection of unpaid tax) is amended by adding at the end thereof the following new subsection:

(d) *Liability of recipient of property over which decedent had power of appointment.* Unless the decedent directs otherwise in his will, if any part of the gross estate upon which the tax has been paid consists of the value of property included in the gross estate under section 811 (f), the executor shall be entitled to recover from the person receiving such property by reason of the exercise, nonexercise, or release of a power of appointment such portion of the total tax paid as the value of such property bears to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c), or section 861, as the case may be. If there is more than one such person the executor shall be entitled to recover from such persons in the same ratio.

* * * * *

SEC. 404. PROCEEDS OF LIFE INSURANCE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Liability of life insurance beneficiaries.* Section 826 (c) (relating to apportionment of liability of beneficiaries) is amended to read as follows:

(c) *Liability of life insurance beneficiaries.* Unless the decedent directs otherwise in his will, if any part of the gross estate upon which tax has been paid consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c). If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 44. Section 81.84 is amended by striking out the second sentence and by inserting in lieu thereof the following sentence:

For specific provisions giving the executor the right to reimbursement from life insurance beneficiaries and from recipients of property over which the decedent had a power of appointment, see section 826 (c) and (d).

PAR. 45. There is inserted immediately preceding § 81.85 the following:

SEC. 411. LIABILITY OF CERTAIN TRANSFEREES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Imposition of liability.* Section 827 (b) is amended to read as follows:

(b) *Liability of transferee, etc.* If the tax herein imposed is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under section 811 (b), (c), (d), (e), (f), or (g), to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property sold by such spouse, transferee, trustee, surviving tenant, person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien provided in section 827 (a) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 46. Section 81.85 is amended by striking out the provisions designated "(d)" and "(e)" and by inserting in lieu thereof the following:

(*d*) In case the decedent died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, such property as was received from the decedent as a transfer by trust or otherwise in contemplation of or intended to take effect in possession or enjoyment at or after his death, or under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from, the property or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom (except in case the transfer was a bona fide sale for an adequate and full consideration in money or money's worth), and was sold by the transferee or trustee to a bona fide purchaser for such a consideration. In such case the lien attaches to all the property of the transferee or trustee except such thereof as may be sold to a bona fide purchaser for such a consideration.

(*e*) In case the decedent died after October 21, 1942, the date of the enactment of the Revenue Act of 1942, such property as was included in the gross estate under the provisions of section 811 (b), (c), (d), (e), (f), or (g), and was sold to a bona fide purchaser for an adequate and full consideration in money or money's worth by the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary. In such case the lien attaches to all the property of the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, except such thereof as may be sold to a bona fide purchaser for such a consideration.

(f) If a certificate releasing such lien is issued. (See § 81.86.)

PAR. 47. Section 81.93 is amended as follows:

(A) By inserting immediately after "90 days" in the fifth sentence thereof "or, if the notice is mailed after October 21, 1942 to an executor outside the States of the Union and the District of Columbia, 150 days".

(B) By changing "ninetieth" in the parenthetical clause of the fifth sentence thereof to read "last".

(C) By inserting immediately after "90 days" in the eighth sentence thereof "or 150 days, whichever is applicable".

(D) By changing "90-day period" each time it appears in the eighth sentence thereof to read "period".

PAR. 48. There is inserted immediately preceding § 81.96 the following:

SEC. 407. DEDUCTION ON ACCOUNT OF PROPERTY PREVIOUSLY TAXED. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(d) *Overpayments.* If the refund or credit of any overpayment to the extent resulting from the application of subsections (a), (b), and (c) of this section, is prevented on the date of enactment of this Act or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection of this section and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating

to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an estate tax erroneously collected if claim therefor is filed within one year from the date of enactment of this Act.

SEC. 415. OVERPAYMENT FOUND BY BOARD. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

The second sentence of section 912 (relating to overpayment found by the Board of Tax Appeals) is amended by striking out "or the filing of the petition" and inserting in lieu thereof "or the mailing of the notice of deficiency".

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 503. SUIT AGAINST COLLECTOR BAR IN OTHER SUITS. (Revenue Act of 1942, Title V, enacted October 21, 1942.)

Section 3772 (relating to suits) is amended by inserting at the end thereof the following new subsection:

(d) *Suits against collector a bar.* A suit against a collector (or former collector) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States had been a party to such suit in applying the doctrine of res judicata in all suits instituted after June 15, 1942, in respect of any internal revenue tax, and in all proceedings in the Board and on review of decisions of the Board where the petition to the Board was filed after such date.

PAR. 49. Section 81.96 is amended as follows:

(A) By striking out the first sentence of the third paragraph and by inserting in lieu thereof the following sentences:

In the case of the estate of a decedent dying on or before October 21, 1942, the amount of the refund shall not exceed the portion of the tax paid during the three year period immediately preceding the filing of the claim, or the filing of the petition with the Board of Tax Appeals, whichever is earlier. In the case of estates of decedents dying after October 21, 1942, the amount of the refund shall not exceed the portion of the tax paid during the three year period immediately preceding the filing of the claim or the mailing of the notice of deficiency, whichever is earlier. In the case of an overpayment found by the Board, the above amounts also include any portions of tax paid after the mailing of the notice of deficiency.

(B) By striking out the fourth paragraph and by inserting in lieu thereof the following paragraphs:

In case a refund or credit of any overpayment involving a deduction for property previously taxed to the extent resulting from the application of paragraph (a) of section 407 of the Revenue Act of 1942, is prevented on October 21, 1942, or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than paragraph (d) of section 407 of the Internal Revenue Code relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an estate tax erroneously collected if claim therefor is filed within one year from October 21, 1942.

If a petition was filed with the Board of Tax Appeals for the redetermination of a deficiency, as provided by section 871 (a), if the Board finds that the executor has made an overpayment of the tax, and if the Board further determines as part of its decision that, in the case of estates of decedents dying after October 21, 1942, any portion of the overpayment was made within three years before the filing of the claim for refund or the mailing of the notice of deficiency, whichever is earlier, or, in the case of estates of decedents dying on or before October 21, 1942, any portion of the overpayment was made within three years before the filing of the claim for refund or the filing of the petition, whichever is earlier, or if the Board further determines as part of its decision that any portion was paid after the mailing of the deficiency, the amount of such portion of the overpayment will be refunded.

PAR. 50. There is inserted immediately preceding § 81.99 the following:

SEC. 411. LIABILITY OF CERTAIN TRANSFEREES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

(a) *Imposition of liability.* Section 827 (b) is amended to read as follows:

(b) *Liability of transferee, etc.* If the tax herein imposed is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under section 811 (b), (c), (d), (e), (f), or (g), to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. * * *

* * * * *

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 51. Section 81.99 is amended by striking out the last paragraph and by inserting in lieu thereof the following paragraphs:

In case the decedent died on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, if the tax in respect of a transfer of property includible in the gross estate under the provisions of section 811 (c), or in respect of insurance receivable by a beneficiary other than the estate and includible in the gross estate under the provisions of section 811 (g), is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax.

In case the decedent died after October 21, 1942, if the tax imposed upon the entire estate is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under section 811 (b), (c), (d), (e), (f), or (g), shall be personally liable for such tax to the extent of the value of such property includible in the gross estate.

PAR. 52. There is inserted immediately preceding § 81.102 the following:

SEC. 411. LIABILITY OF CERTAIN TRANSFEREES. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

* * * * *

(b) *Definition of transferee.* Section 900 (e) is amended to read as follows:

(e) *Definition of "transferee".* As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee, and includes a person who, under section 827 (b), is personally liable for any part of the tax.

SEC. 401. ESTATES TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part I, enacted October 21, 1942.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 53. Section 81.102 is amended by changing the second paragraph of subsection (b) thereof to read as follows:

The term "transferee" as used in section 900 includes an heir, legatee, devisee, and distributee of an estate of a deceased person, and also includes a person who under section 827 (b) is personally liable for any part of the tax.

PAR. 54. There is inserted immediately after section 840 and preceding section 3791 of the "Miscellaneous Provisions", which follow § 81.105, the following:

[*Cross Reference.* For provisions of law and regulations authorizing the postponement by reason of war of the performance of certain acts required or permitted under the estate tax law, see section 507 of the Revenue Act of 1942 and regulations pertaining thereto separately promulgated.]

(Sec. 3791 of the Internal Revenue Code (53 Stat. 467, 26 U.S.C. 3791) and sections 401, 402, 403, 404, 405, 406, 407 (a), (c) (1), (2) and (3) and (d), 408, 409, 410, 411, 412, 413, 414, 415, 503, 504, and 507 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, and the Joint Resolution of December 17, 1942 (Public Law 809, 77th Congress))

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 10, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-3838; Filed, March 11, 1943; 11:54 a. m.]

[T.D. 5241]

PART 85—GIFT TAX UNDER THE REVENUE ACT OF 1932, AS AMENDED

POWERS OF APPOINTMENT, ETC., AMENDMENTS

In order to conform Regulations 79 (1936 Edition) [Part 85, Title 26, Code of Federal Regulations], and such regulations as made applicable to the Internal Revenue Code (53 Stat., Part 1; 26 U.S.C.) by Treasury Decision 4885, approved February 11, 1939 [Chapter I, note, Title 26, Code of Federal Regulations, 1939 Sup.], to certain sections of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, and the Joint Resolution of December 17, 1942 (Public Law 809, 77th Congress), such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding article 1 [§ 85.1 of such Title 26] the following:

SEC. 452. POWERS OF APPOINTMENT. (Revenue Act of 1942, Title IV, Part II, enacted October 21, 1942.)

(a) *General rule.* Section 1000 (relating to imposition of gift tax) is amended by inserting at the end thereof the following new subsection:

(c) *Powers of appointment.* An exercise or release of a power of appointment shall be deemed a transfer of property by the individual possessing such power. For the purposes of this subsection the term "power of appointment" means any power to appoint exercisable by an individual either alone or in conjunction with any person, except—

(1) a power to appoint within a class which does not include any others than the spouse of such individual, spouse of the creator of the power, descendants of such individual or his spouse, descendants (other than such individual) of the creator of the power or his spouse, spouses of such descendants, donees described in section 1004 (a) (2), and donees described in section 1004 (b). As used in this paragraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse; and

(2) a power to appoint with a restricted class if such individual did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest, and if the power is not exercisable to any extent for the benefit of such individual, his estate, his creditors, or the creditors of his estate.

If a power to appoint is exercised by creating another power to appoint, such first power shall not be considered excepted under paragraph (1) or (2) from the definition of power of appointment to the extent of the value of the property subject to such second power to appoint. For the purposes of the preceding sentence the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint.

(b) *Powers with respect to which amendments not applicable.*

(1) The amendments made by this section shall not apply with respect to a power to appoint, created on or before the date of enactment of this Act, which is other than a power exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of enactment of this Act.

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

(c) *Release on or Before January 1, 1943.*

(1) A release of a power to appoint before January 1, 1943, shall not be deemed a transfer of property by the individual possessing such power.

(2) This subsection shall apply to all calendar years prior to 1943.

SEC. 453. GIFTS OF COMMUNITY PROPERTY. (Revenue Act of 1942, Title IV, Part II.)

Section 1000 (relating to tax on gifts) is amended by inserting at the end thereof the following new subsection:

(d) *Community property.* All gifts of property held as community property under the law of any State, Territory, or possession of the United States, or any foreign country shall be considered to be the gifts of the husband except that gifts of such property as may be shown to have been received as compensation for personal services actually rendered by the wife or derived originally from such compensation or from separate property of the wife shall be considered to be gifts of the wife.

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part II.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

JOINT RESOLUTION. (Public Law 809, 77th Congress, enacted December 17, 1942.)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That * * * section 452 (c) of the Revenue Act of 1942 is amended to read as follows:

(c) *Release on or Before July 1, 1943.*

(1) A release of a power to appoint before July 1, 1943, shall not be deemed a transfer of property by the individual possessing such power.

(2) This subsection shall apply to all calendar years prior to 1943 and to that part of the calendar year 1943 prior to July 1, 1943.

PAR. 2. Article 2 [§ 85.2 of such Title 26], as amended by Treasury Decision 5041, approved March 1, 1941, is further amended as follows:

(A) By inserting immediately before the first sentence thereof the following: "(a) *In general.*"

(B) By inserting at the end thereof the following new paragraph:

(b) *Transfers under power of appointment.* The exercise of a power of appointment after June 6, 1932 and before January 1, 1943 constitutes a gift by the individual possessing the power if the power is exercisable in favor of any person or persons in the discretion of such individual, or, however limited as to the persons or objects in whose favor the appointment may be made, if it is exercisable in favor of the individual possessing the power, his estate, his creditors, or the creditors of his estate. The release of a power to appoint before July 1, 1943 is excepted from the application of the tax by reason of the express provisions of section 452 (c) of the Revenue Act of 1942, as amended by the Joint Resolution of December 17, 1942. It is presumed that all general powers of appointment are releasable, unless the local law on the subject is to the contrary; and it is presumed that the method employed to release the power is effective, unless it is not in accordance with the local law on the subject (or, in the absence of such local law, is not in accordance with the local law relating to similar transactions). Section 452 (c) of the Revenue Act of 1942, however, does not apply to any release of a power reserved, directly or indirectly, by a donor upon a transfer, as distinguished from a donee of a power of appointment who releases the power which he had received from another person. See article 3 with respect to the taxability of the relinquishment of reserved powers.

During the calendar year 1943 and any calendar year thereafter, section 1000 (c), as added by the Revenue Act of 1942, applies, subject, however, to section 452 (c) of such Act, as amended by the Joint Resolution of December 17, 1942. That is, during such years an exercise or release (other than a release prior to July 1, 1943), without an adequate and full consideration in money or money's worth, of a power of appointment by the individual possessing such power (including any power to appoint exercisable in conjunction with another person) constitutes a gift, except in the case of the following:

(1) The exercise or release of a power to appoint which is not exercisable to any extent for the benefit of such individual, his creditors, his estate, or the creditors of his estate, and which is exercisable in favor of only one or more other persons or objects:

(i) Within a class which does not include any others than the spouse of such individual, spouse of the creator of the power, descendants of such individual or his spouse, descendents of the creator of the power or his spouse, spouses of such descendants, charitable, etc., organizations described in section 1004 (a) (2) and charitable, etc., organizations described in section 1004 (b); or

(ii) Within a restricted class if such individual did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest. For the purposes of this paragraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse. The treatment of adopted and illegitimate descendants as descendants is intended to include adopted and illegitimate children (and their descendants and their adopted and illegitimate children) as descendants, if such children would be descendants had they been born as legitimate children in the station to which they are adopted or born. The provisions of (ii) apply to a power possessed by a disinterested trustee or one occupying a similar status to appoint within a relatively small class. For example, a power to appoint within a class composed of A's children would be a power to appoint within a restricted class. On the other hand, a power to appoint to anyone except A and his family would

not be a power confined to a restricted class. The restricted character of a class is not affected by the fact that the decedent has power to appoint to any number of charitable, etc., organizations described in section 1004 (a) (2) or (b). A power to appoint is not confined to a restricted class merely because the power is not exercisable in favor of such individual, his creditors, his estate, or the creditors of his estate, or all of them.

(2) The release of a power to appoint created on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, which is not a power exercisable in favor of the donee of the power (who is the appointor), his estate, his creditors, or the creditors of his estate.

(3) The release of a power to appoint created on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, which power is exercisable in favor of the donee of the power (who is the appointor), his creditors, his estate, or the creditors of his estate, if on such date such appointor was under a legal disability to release such power and if the release thereof is effected prior to July 1, 1943 or the day after six months immediately following the termination of the legal disability, whichever is later. The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that a power of appointment of the type possessed by the individual was not generally releasable under the local law does not place the individual under a legal disability within the meaning of section 452 (b) (2) of the Revenue Act of 1942. Until the termination of the present war, an individual in active service in the military or naval forces of the United States on October 21, 1942, shall be considered under a legal disability to release a power to appoint while such individual is in such service.

If a power to appoint is exercised by creating another power to appoint, to the extent of the property subject to such second power to appoint, such first power shall not be considered excepted under preceding subparagraph (1). For this purpose the statute prescribes that the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint. Thus, if the donor has a power to appoint a fund of $100,000 within a class consisting only of his children (which is one of the excepted powers) and during his lifetime exercises such power by giving one child a power to appoint $25,000 of such fund and by making an outright appointment of $75,000, only $25,000 is considered a gift. If, however, the individual had appointed the income from the entire fund to such child for life with power in such child to appoint the remainder in his will, the whole $100,000 would be considered a gift. This provision applies whether or not the newly created power to appoint is of a kind described in preceding subparagraph (1).

The term "power of appointment" includes any power received by the appointor from another person which is in substance and effect a power to appoint regardless of the nomenclature used in creating the power and local property law connotations. For example, if a settlor transfers property in trust for the life of his wife with a power in the wife to appropriate or consume the principal of the trust, the wife has a power of appointment and the release of such a power constitutes a taxable transfer. On the other hand, if, for example, a power of appointment with respect to the remainder, exercisable by the life tenant, is subject to the consent of the trustee who is a disinterested third party not receiving any beneficial interest upon such transfer, upon the exercise or release of the power by the life tenant no part of the gift of such remainder is attributable to the trustee personally. Similarly, if property is transferred in trust by a grantor reserving the power to alter, amend, revoke, or terminate the trust with the consent of the trustee who is a disinterested party not receiving any beneficial interest upon the transfer, the exercise or relinquishment of such power by the grantor with the consent of such trustee is not a taxable transfer by the latter. Ordinarily, powers of management with respect to property in trust, such as the determination of whether distributions shall be made annually or quarterly, the making of investments and reinvestments, or the determination of items of income or principal under recognized rules of accounting, are not powers of appointment over property under section 1000 (c).

A power to appoint is exercised where the property subject thereto is appointed to the taker in default of appointment, regardless of whether or not the appointed interest and the interest in default of appointment are identical, and regardless of whether or not the appointee renounces any right to take under the appointment. For the purposes of section 1000 (c), a release of a power of appointment need not be express or formal in character. For example, the failure to exercise a power of appointment within a specified time, resulting in the termination of the power of appointment, is taxable if other conditions imposed by section 1000 (c) are present.

The reduction in scope of a power of appointment, as defined in section 1000 (c), to an excepted power under section 1000 (c) (1) or (2), which is not a power of appointment as thus defined, constitutes the release of the power of appointment. In such case, the release is effected at such time as under the applicable law the power cannot be exercised in favor of persons or objects other than those described in section 1000 (c) (1) or (2). If such release is effected prior to July 1, 1943 (or, in a case described in subparagraph (3) of (b) of this article, relating to persons under a legal disability, prior to the date specified therein), a taxable transfer does not result. For the purpose of determining whether a power created on or before October 21, 1942 satisfied the requirements of section 1000 (c) (2) on July 1, 1943 (or other applicable date in a case described in subparagraph (3) of (b) of this article), the fact as to whether the individual received any beneficial interest in the property is to be ascertained without regard to the power to appoint which he received. If such release is effected on or after July 1, 1943 (or, in a case described in subparagraph (3) of (b) of this article, relating to persons under a legal disability, on or after the date specified therein), a taxable transfer results.

Section 1000 (c) does not apply to a power reserved, directly or indirectly, by a donor upon a transfer, as distinguished from the possessor of a power of appointment received from another person. See article 3 with respect to the taxability of reserved powers.

(c) *Transfers of community property after 1942.* During the calendar year 1943 and any calendar year thereafter any gift of property held as community property under the law of any State, Territory, or possession of the United States, or any foreign country constitutes a gift of the husband for the purpose of the gift tax statute (regardless of whether under the terms of the transfer the husband alone or the wife alone is designated as the donor or whether both are so designated as donors), except to the extent that such property is shown (1) to have been received as compensation for personal services actually rendered by the wife or derived originally from such compensation, or (2) to have been derived originally from separate property of the wife. The entire property comprising the gift is prima facie a gift of the husband, but any portion thereof which is shown to be economically attributable to the wife as prescribed in the preceding sentence constitutes a gift of the wife.

The rule stated in the preceding paragraph applies alike to a transfer by way of gift of community property to a third party or third parties, to a division of such community property between husband and wife into the separate property of each, and to a transfer by the husband and wife of any part of such community property into the separate property either of the husband or of the wife, or into a joint estate or tenancy by the entirety of both spouses. In all of such cases the value of the property so transferred or so divided, as the case may be, is a gift by the husband to the extent that it exceeds the aggregrate amount of the value of that portion which is shown to be economically attributable to the wife, as prescribed in the preceding paragraph, and of the value of the husband's interest in such property after such transfer or division. The value of the property so transferred or so divided, as the case may be, is a gift by the wife to the extent that the portion of such value which is shown to be economically attributable to her, as prescribed in the preceding paragraph, exceeds the value of her interest in such property after such transfer or division. See examples (7) and (8) of (a) of this article. No gift tax results from a transfer on or after January 1, 1943 of separate property of either spouse into community property.

Property derived originally from compensation for personal services actually

rendered by the wife or from separate property of the wife includes property that may be identified as (1) income yielded by property received as such compensation or by such separate property, and (2) property clearly traceable (by reason of acquisition in exchange, or other derivation) to property received as such compensation, to such separate property, or to such income. The rule established by this statute for apportioning the respective contributions of the spouses is applicable regardless of varying local rules of apportionment, and State presumptions are not operative against the Commissioner.

PAR. 3. ARTICLE 5 [§ 85.5 of such Title 26], as amended by Treasury Decision 5090, approved October 17, 1941, is further amended by changing the fifth sentence thereof to read as follows:

In determining the aggregate sum of the net gifts for each of the preceding calendar years, the total amount of the specific exemption claimed and allowed for such preceding years should be deducted, except that if tax is being computed for the calendar year 1943 or for any calendar year thereafter such deduction can not exceed $30,000, or if the tax is being computed for a calendar year subsequent to 1935 and prior to 1943 such deduction can not exceed $40,000.

PAR. 4. Article 7 [§ 85.7 of such Title 26], amended by Treasury Decision 5090, is further amended by striking from the sentence, in the last paragraph, which begins "As stated in article 5 * * *" the following: "or for any calendar year thereafter,".

PAR. 5. There is inserted immediately preceding article 9 [§ 85.9 of such Title 26] the following:

SEC. 454. EXCLUSION FOR NET GIFTS REDUCED. (Revenue Act of 1942, Title IV, Part II.)

Section 1003 (b) (2) (relating to exclusion of gifts) is amended to read as follows:

(2) *Gifts after 1938 and prior to 1943.* In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year 1939 and subsequent calendar years prior to 1943, the first $4,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

(3) *Gifts after 1942.* In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1943 and subsequent calendar years, the first $3,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part II.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

PAR. 6. Article 10 [§ 85.10 of such Title 26], as amended by Treasury Decision 4830, approved July 18, 1938, is further amended to read as follows:

ART. 10. *Total amount of gifts.* Except with respect to any gift of a future interest in property, the first $3,000 of gifts made to any one donee during the calendar year 1943 or during any calendar year thereafter shall be excluded in determining the total amount of gifts for such calendar year. In the case of a gift in trust, the beneficiary of the trust is the donee of the gift. Except with respect to any gift in trust or of a future interest in property, the first $4,000 of gifts made to any one donee during any one of the calendar years 1939 to 1942, inclusive, shall be excluded in determining the total amount of gifts for any such calendar year. Except with respect to any gift of a future interest in property, the first $5,000 of gifts made to any one donee during the calendar year 1938 or during any calendar year prior thereto shall be excluded in determining the total amount of gifts for such calendar year. The entire value of any gift of a future interest in property, and the entire value of any gift made by a transfer in trust during the calendar years 1939 to 1942, inclusive, must be included in the total amount of gifts for the calendar year in which such a gift is made.

PAR. 7. There is inserted immediately preceding article 12 (§ 85.12 of such Title 26] the following:

SEC. 455. SPECIFIC EXEMPTION OF GIFTS REDUCED. (Revenue Act of 1942, Title IV, Part II.)

That part of section 1004 which precedes paragraph (2) of subsection (a) is amended to read as follows:

SEC. 1004. DEDUCTIONS.

In computing net gifts for the calendar year 1942 and preceding calendar years, there shall be allowed (except as otherwise provided in paragraph (1) of subsection (a)) such deductions as are provided for under the gift tax laws applicable to the years in which the gifts were made.

In computing net gifts for the calendar year 1943 and subsequent calendar years, there shall be allowed as deductions:

(a) *Residents.* In the case of a citizen or resident—

(1) *Specific exemption.* An exemption of $30,000, less the aggregate of the amounts claimed and allowed as specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years intervening between that calendar year and the calendar year for which the tax is being computed under the laws applicable to such years. This exemption shall be applied in all computations in respect of the calendar year 1942 and previous calendar years for the purpose of computing the tax for the calendar year 1943 or any calendar year thereafter.

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part II.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

PAR. 8. Article 12 [§ 85.12 of such Title 26] is amended as follows:

(A) By changing the first sentence to read as follows:

In determining the amount of net gifts of a given calendar year there may be deducted, if the donor was a resident or citizen of the United States at the time the gifts were made, a specific exemption of $30,000 ($40,000 if the calendar year is after 1935 and before 1943, or $50,000 if the calendar year is before 1936), less the sum of the amounts claimed and allowed as an exemption in prior calendar years.

(B) By changing the third sentence to read as follows: In determining the aggregate sum of the net gifts for the preceding calendar years (see article 5), the total amount of the specific exemption claimed and allowed for such preceding years should be deducted, except that if tax is being computed for the calendar year 1943 or for any calendar year thereafter such deduction cannot exceed $30,000, or if the tax is being computed for a calendar year subsequent to 1935 and prior to 1943 such deduction cannot exceed $40,000.

PAR. 9. Article 18, as amended by Treasury Decision 4955, approved November 20, 1939, is further amended by striking out "(See § 531 (b).)" in the second paragraph and by inserting in lieu thereof "(See article 76 (b).)".

PAR. 10. Article 20 [§ 85.20 of such Title 26], as amended by Treasury Decision 4830, is further amended by striking out the first sentence and by inserting in lieu thereof the following:

Any individual resident or citizen of the United States who within the calendar year 1943, or within any calendar year thereafter, makes a transfer or transfers by gift to any one donee of a value or total value in excess of $3,000 (or regardless of value in the case of a gift of a future interest in property) must file a gift tax return for such year on Form 709. Any individual resident or citizen of the United States who within any one of the calendar years 1939 to 1942, inclusive, makes a transfer or transfers by gift to any one donee of a value or total value in excess of $4,000 (or regardless of value in the case of a gift in trust or of a future interest in property) must file a gift tax return for such year on Form 709.

PAR. 11. Article 23 [§ 85.23 of such Title 26], as amended by Treasury Decision 4830, is further amended by striking out the third sentence and by inserting in lieu thereof the following:

If the return is filed for the calendar year 1943, or for any calendar year thereafter, it must set forth every transfer by gift to any one donee during such calendar year which singly or in the aggregate exceeds $3,000 in value (or regardless of value in the case of a gift of a future interest in property). A return filed for the calendar year 1939, or for any calendar year thereafter prior to the calendar year 1943, must set forth every transfer by gift to any one donee during such calendar year which singly or in the aggregate exceeds $4,000 in value (or regardless of value in the case of a gift in trust or of a future interest in property).

PAR. 12. There is inserted immediately preceding article 41 [§ 85.41 of such Title 26] the following:

SEC. 456. PERIOD FOR FILING PETITION EXTENDED IN CERTAIN CASES. (Revenue Act of 1942, Title IV, Part II, enacted October 21, 1942.)

(a) *Period extended.* Section 1012 (a) (1) (relating to period for filing petition with Board of Tax Appeals) is amended by insert-

ing at the end thereof the following new sentence: "If the notice is addressed to a donor outside the States of the Union and the District of Columbia, the period specified in this paragraph shall be one hundred and fifty days in lieu of ninety days."

(b) *Effective date.* The amendment made by this section shall be applicable with respect to notices of deficiency mailed after the date of the enactment of this Act.

SEC. 504. CHANGE OF NAME OF BOARD OF TAX APPEALS. (Revenue Act of 1942, Title V, enacted October 21, 1942.)

(a) *The Tax Court of the United States.* Effective on the day after the date of enactment of this Act, section 1100 (relating to status of Board of Tax Appeals) is amended by inserting at the end thereof the following new sentence: "The Board shall be known as The Tax Court of the United States and the members thereof shall be known as the presiding judge and the judges of The Tax Court of the United States."

(b) *Powers, tenure, etc., unchanged.* The jurisdiction, powers, and duties of The Tax Court of the United States, its divisions and its officers and employees, and their appointment, including the designation of its officers, and the immunities, tenure of office, powers, duties, rights, and privileges of the presiding judge and judges of The Tax Court of the United States shall be the same as by existing law provided in the case of the Board of Tax Appeals. The Commissioner shall continue to be represented by the same counsel in the same manner before the Court as he has heretofore been represented in proceedings before the Board of Tax Appeals and the taxpayer shall continue to be represented in accordance with rules of practice prescribed by the Court. No qualified person shall be denied admission to practice before such Court because of his failure to be a member of any profession or calling.

(c) *References.* All references in any statute (except this section), or in any rule, regulation, or order, to the "Board of Tax Appeals" or to the "Board" when used in the sense of "Board of Tax Appeals", or to the "member", "members", or "chairman" thereof shall be considered to be made to The Tax Court of the United States, the judge, judges, and presiding judge thereof, respectively.

PAR. 13. Article 41 [§ 85.41 of such Title 26] is amended by changing the third, fourth and fifth sentences thereof to read as follows:

Within 90 days after the notice of deficiency is mailed (or within 150 days after the notice of deficiency is mailed in case such notice is mailed after October 21, 1942, addressed to a donor outside the States of the Union and the District of Columbia), a petition may be filed with the Board of Tax Appeals for a redetermination of the deficiency. In determining such prescribed period, Sunday or a legal holiday in the District of Columbia is not to be counted as the last day thereof. Except as stated in subparagraphs numbered (1), (2), (3), (4), and (5) of this article, no assessment of deficiency in respect of the tax shall be made until such notice has been mailed to the donor, nor until the expiration of the period prescribed for the filing of a petition with the Board, nor, if a petition has been filed, until the decision of the Board has become final.

PAR. 14. Article 45 [§ 85.45 of such Title 26], as amended by Treasury Decision 4830, is further amended as follows:

(A) By changing the third sentence of the second paragraph thereof to read as follows:

The donor may file a petition with the Board for a redetermination of the amount of the deficiency within 90 days after such notice is mailed (or within 150 days after mailing in case such notice is mailed after October 21, 1942, addressed to a donor outside the States of the Union and the District of Columbia), and in determining such prescribed period Sunday or a legal holiday in the District of Columbia is not to be counted as the last day thereof.

(B) By striking "90-day" from the eighth sentence of the third paragraph the first time it appears therein.

(C) By striking "the 90-day period" from the eighth sentence of the third paragraph the second time it appears therein, and by inserting in lieu thereof "such period".

(D) By striking "90-day period" from the ninth sentence of the third paragraph and by inserting in lieu thereof "period provided for the filing of such petition".

PAR. 15. There is inserted immediately preceding article 62 [§ 85.62 of such Title 26] the following:

SEC. 451. OVERPAYMENT FOUND BY BOARD. (Revenue Act of 1942, Title IV, Part II.)

The second sentence of section 1027 (d) (relating to overpayment found by the Board of Tax Appeals) is amended by striking out "or the filing of the petition" and inserting in lieu thereof "or the mailing of the notice of deficiency".

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title IV, Part II.)

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

SEC. 503. SUIT AGAINST COLLECTOR BAR IN OTHER SUITS. (Revenue Act of 1942, Title V.)

Section 3772 (relating to suits) is amended by inserting at the end thereof the following new subsection:

(d) *Suits against collector a bar.* A suit against a collector (or former collector) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States had been a party to such suit in applying the doctrine of res judicata in all suits instituted after June 15, 1942, in respect of any internal revenue tax, and in all proceedings in the Board and on review of decisions of the Board where the petition to the Board was filed after such date.

PAR. 16. Article 68 [§ 85.68 of such Title 26], as amended by Treasury Decision 4830, is further amended by changing the first sentence of (*b*) (1) thereof to read as follows:

If the Board finds that the tax has been overpaid for the year to which the notice of the deficiency relates, if the decision of the Board as to the amount overpaid becomes final, and if the Board determines as part of its decision that, as to gifts made during the calendar year 1943 or thereafter, any portion of the overpayment was made within three years before the filing of the claim for refund or the mailing of the notice of deficiency, whichever is earlier, or, as to gifts made during the calendar year 1942 or prior thereto, any portion of the overpayment was made within three years before the filing of the claim for refund or the filing of the petition, whichever is earlier, the amount of such portion of the overpayment will be credited or refunded.

PAR. 17. There is inserted at the end of article 75 [§ 85.75 of Title 26] the following sentence:

For provisions of law and regulations authorizing the postponement by reason of war of the performance of certain acts required or permitted under the gift tax law, see section 507 of the Revenue Act of 1942 and regulations pertaining thereto separately promulgated.

PAR. 18. There is inserted immediately preceding article 76 [§ 85.76 of such Title 26] the following:

SEC. 458. DEFINITION OF PROPERTY IN UNITED STATES. (Revenue Act of 1942, Title IV, Part II.)

(a) *Technical amendment to definition.* Section 1030 (b) is amended to read as follows:

(b) *Property within the United States.* Stock in a domestic corporation owned and held by a nonresident not a citizen of the United States shall be deemed property situated within the United States.

(b) *Effective date of amendment.* The amendment made by this section shall be effective as of February 10, 1939.

PAR. 19. Article 76 [§ 85.76 of such Title 26] is amended by changing the first sentence of (*b*) thereof to read as follows:

Stock in a domestic corporation owned and held by a nonresident not a citizen of the United States, shall be deemed property situated in the United States for the purposes of the gift tax.

(Secs. 1000, 1029 and 3791 of the Internal Revenue Code (53 Stat. 144, 157, 487; 26 U.S.C. 1000, 1029, 3791), sec. 451, 452, 453, 454, 455, 456, 457, 458, and 507 of the Revenue Act of 1942 (Pub. Law 753, 77th Cong.), approved October 21, 1942, the Joint Resolution of December 17, 1942 (Pub. Law 809, 77th Cong.), and secs. 501 and 530 of the Revenue Act of 1932 (47 Stat. 245, 259), approved June 6, 1932)

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 10, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-3840; Filed, March 11, 1943; 11:54 p. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[General Docket 25]

PART 318—MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN ALL DISTRICTS

PART 317—REGISTRATION OF DISTRIBUTORS

Order of the Director in the matter of amending § 318.2 (j) of the marketing rules and regulations, as prescribed in General Docket No. 15, and § 317.10 (c) of the rules and regulations for the registration of distributors, as prescribed in General Docket No. 12.

Upon the findings and conclusions set forth in the Opinion of the Director, filed simultaneously herewith, wherein it appears that the Bituminous Coal Division instituted the proceeding herein to determine whether and to what extent § 318.2 (j) of the Marketing Rules and Regulations and § 317.10 (c) and related sections of the Rules and Regulations for the Registration of Distributors should be amended, and pursuant to sections 2 (a), 4 II (h) and other provisions of the Bituminous Coal Act of 1937.

It is hereby ordered, That § 318.2 (j) of the Marketing Rules and Regulations, and §§ 317.3 (d) (7) and 317.10 (c) of the Rules and Regulations for the Registration of Distributors are amended to read as follows:

§ 318.2 *Sales agents.* * * *

(j) No commission may be paid to a sales agent by a code member for the sale of coal to any person who is owned or controlled by or who owns or controls the sales agent or who is owned or controlled by another person or group of persons who also own or control the sales agent, unless the Director, pursuant to application by a code member or the sales agent has authorized the payment of such commission upon a showing by the code member or sales agent that the payment thereof would not violate paragraphs 11 and 12 of section 4 II (i) of the Act and the Code or any other provision of the Act, the Code or the Rules and Regulations of the Division: *Provided,* That, where the relationship does not involve control and consists of the ownership of less than 10 percent of the voting securities of the sales agent, purchaser, or both, as the case may be, such commission may be paid and no application need be filed by the code member or sales agent. The Director may, upon suitable showing by the applicant, grant the application, or, after notice and hearing grant, deny or otherwise dispose of such application. Any application may be accompanied by a request that relief be retroactive to the date of filing the application or by a request for the approval of escrow or other specified arrangements pending disposition of the application. Any change in the relationship disclosed in the application shall be reported by the applicant to the Division within ten days from the date thereof.

§ 317.3 *Terms of "Agreement by Registered Distributor"* * * *

Agreement by Registered Distributor

* * * * * *

(7) Not to accept or retain a distributor's discount on coal purchased by the distributor for resale to any person who is owned or controlled by or who owns or controls the distributor or who is owned or controlled by another person or group of persons who also own or control the distributor, unless the Director, pursuant to application by the distributor has authorized the acceptance or retention of such discount upon a showing by the distributor that the allowance thereof would not violate paragraphs 11 and 12 of section 4 II (i) of the Act and the Code or any other provision of the Act, the Code or the Rules and Regulations of the Division: *Provided,* that, where the relationship does not involve control and consists of the ownership of less than 10 percent of the voting securities of the distributor, purchaser, or both, as the case may be, such discount may be accepted and retained and no application need be filed by the distributor. (The Director may, upon suitable showing by the applicant, grant the application or after notice and opportunity for hearing, grant, deny or otherwise dispose of such application. Any application may be accompanied by a request that relief be retroactive to the date of filing the application or by a request for the approval of escrow or other specified arrangements pending disposition of the application. Any change in the relationship disclosed in the application shall be reported by the applicant to the Division within ten days from the date thereof.)

§ 317.10 *Miscellaneous provisions.* * * *

(c) No distributor's discount may be accepted or retained by a distributor on coal purchased by the distributor for resale to any person who is owned or controlled by or who owns or controls the distributor or who is owned or controlled by another person or group of persons who also own or control the distributor, unless the Director, pursuant to application by the distributor, has authorized the acceptance or retention of such discount upon a showing by the distributor that the allowance thereof would not violate paragraphs 11 and 12 of section 4 II (i) of the Act and the Code or any other provision of the Act, the Code or the Rules and Regulations of the Division: *Provided,* That, where the relationship does not involve control and consists of the ownership of less than 10 per cent of the voting securities of the distributor, purchaser, or both, as the case may be, such discount may be accepted and retained and no application need be filed by the distributor. The Director may, upon suitable showing by the applicant, grant the application, or after notice and opportunity for hearing, grant, deny or otherwise dispose of such application. Any application may be accompanied by a request that relief be retroactive to the date of filing the application or by a request for approval of escrow or other specified arrangements pending disposition of the application. Any change in the relationship disclosed in the application shall be reported by the applicant to the Division within ten days from the date thereof.

It is further ordered, That § 317.1 *Meaning of terms* of the Rules and Regulations for the Registration of Distributors be amended to include the following additional paragraph:

(f) *Control.* The possession, direct or indirect of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

It is further ordered, That the foregoing amendments shall be effective thirty (30) days from the date hereof.

Dated: March 6, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-3785; Filed, March 10, 1943; 12:21 p. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XI—War Production Board

Subchapter B—Director General for Operations

PART 1010—SUSPENSION ORDERS

[Suspension Order S-249]

WALLIS PLUMBING CO.

AUTHORITY: Regulations in this subchapter issued under P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.

The Wallis Plumbing Company, Inc., 2218 Pennsylvania Avenue, Baltimore, Maryland, is a corporation engaged in the plumbing and heating supply business. Subsequent to May 23, 1942, the Wallis Plumbing Company, Inc., having knowledge of the provisions of Limitation Order L-79, sold and delivered numerous items of new metal plumbing equipment and new metal heating equipment to ultimate consumers in wilful violation of that order. On June 9, 1942 the Wallis Plumbing Company, Inc., having knowledge of the provisions of Preference Rating Order P-84, in wilful violation thereof, extended an A-10 preference rating under Preference Rating Order P-84 for the purchase of certain plumbing and heating materials which it knew were not to be used, and were not to replace materials which had been used, for emergency repairs.

These violations of Limitation Order L-79 and Preference Rating Order P-84 have hampered and impeded the war effort of the United States by diverting scarce materials to uses not authorized by the War Production Board. In view of the foregoing facts, *It is hereby ordered:*

§ 1010.249 *Suspension Order S-249.* (a) Deliveries of material to The Wallis Plumbing Company, Inc., its successors and assigns, shall not be accorded priority over deliveries under any other contract or order and no preference ratings shall be assigned, applied or extended to such deliveries by means of preference rating certificates, preference rating orders, general preference orders or any other orders or regulations of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(b) No allocation shall be made to The Wallis Plumbing Company, Inc., its successors and assigns, of any material, the supply or distribution of which is covered by any order of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(c) The Wallis Plumbing Company, Inc., its successors and assigns, are hereby prohibited from accepting deliveries of, receiving, delivering, selling, transferring, trading, or dealing in any new metal plumbing or heating equipment as defined in Limitation Order L-79, except with the specific approval of the Regional Compliance Chief, War Production Board, Philadelphia, Pennsylvania.

(d) Nothing contained in this order shall be deemed to relieve the Wallis Plumbing Company, Inc. from any restriction, prohibition, or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, except in so far as the same may be inconsistent with the provisions hereof.

(e) This order shall take effect on March 13, 1943, and shall expire on June 13, 1943.

Issued this 10th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43-3814; Filed, March 10, 1943; 5:00 p. m.]

PART 1010—SUSPENSION ORDERS

[Amendment 1 to Suspension Order S-219]

S-219]

E. C. JOHNSTON

E. C. Johnston, Longview, Texas, has appealed from the provisions of Suspension Order S-219, issued January 18, 1943. In his appeal he submitted certain evidence not previously submitted showing that his violation of Conservation Order M-68 was not intentional but was caused by his careless disregard of the provisions of that order. As a result of the evidence submitted in this appeal, it has been determined that Suspension Order S-219 should be modified so as to expire at an earlier date than now specified.

In view of the foregoing, paragraph (d) of § 1010.219, Suspension Order S-219, issued January 18, 1943, is hereby amended to read as follows:

(d) This order shall take effect on January 22, 1943, and shall expire on March 15, 1943, at which time the restrictions contained in this order shall be of no further effect.

Issued this 9th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43-3764; Filed, March 9, 1943; 4:55 p. m.]

PART 933—COPPER

[Supplementary Order M-9-b, as Amended March 11, 1943]

§ 933.3 *Supplementary Order M-9-b*—(a) *Definitions.* For the purposes of this supplementary order:

(1) "Scrap" means all copper or copper-base alloy materials or objects which are the waste or by-product of industrial fabrication, or which have been discarded on account of obsolescence, failure or other reason.

(2) "Copper clad steel scrap" means all copper or copper-base alloy clad or coated steel materials or objects in which the cladding or coating amounts to 3% or more by weight and which are the waste or by-product of industrial fabrication, or which have been discarded on account of obsolescence, failure or other reason.

(3) "Copper" means copper metal which has been refined by any process of electrolysis or fire refining to a grade and in a form suitable for fabrication such as cathodes, wire bars, ingot bars, ingots, cakes, billets, wedge bars or other refined shapes, or copper shot or other forms produced by a refiner.

(4) "Copper-base alloy" means any alloy in the composition of which the percentage of copper metal by weight equals or exceeds 40% of the total weight of the alloy.

(5) "Alloy ingot" means an alloy ingot or other shape for remelting which has been cast primarily from copper-base alloy or scrap.

(6) "Brass mill scrap" means that scrap which is a waste or by-product of industrial fabrication of products of brass mills.

(7) "Brass mill" means any person who rolls, draws or extrudes castings of copper or copper-base alloys; it does not include a mill which rerolls, redraws or reextrudes products produced from refinery shapes or castings of copper or copper-base alloys.

(8) "Foundry" means any person casting copper or copper-base alloy shapes or forms suitable for ultimate use without rolling, drawing, extruding, or forging. The process of casting includes the removal of gates, risers and sprues, and sand blasting, tumbling or dipping, but does not include any further machining or processing.

(9) "Scrap dealer" means any person regularly engaged in the business of buying and selling scrap.

(10) "Public utilities" means any person furnishing telephone, telegraph or electric light and power services to the public or city, suburban or inter-city electrically operated public carrier transportation.

(b) *Delivery or acceptance of scrap, copper clad steel scrap or alloy ingots.* Notwithstanding any preference rating, no person shall deliver or accept the delivery of any scrap, copper clad steel scrap or alloy ingots except in accordance with the following directions:

(1) Brass mill scrap shall be delivered only to a scrap dealer or to a brass mill; a scrap dealer who accepts delivery of brass mill scrap shall in turn deliver such scrap only to a brass mill or another scrap dealer.

(2) No. 1 or No. 2 copper scrap shall be delivered only to a scrap dealer, or to a person specifically authorized by the Director General for Operations to receive deliveries of such quantities of No. 1 or No. 2 copper scrap.

(3) Copper clad steel scrap and unreloadable fired artillery cases, cartridge cases or bullet jackets, which have been manufactured from copper, copper-base alloys or copper clad steel, in excess of ten (10) pounds, or copper base alloy scrap containing 0.1% or more of beryllium by weight, shall be delivered only to persons specifically authorized or directed by the Director General for Operations to receive such deliveries.

(4) Scrap other than that specified in paragraphs (b) (1) through (3) above shall be delivered only to a scrap dealer, or to a person specifically authorized by the Director General for Operations to receive deliveries of such quantities of scrap.

(5) Alloy ingots shall be delivered only to a person specifically authorized by the Director General for Operations to receive deliveries of such quantities of alloy ingots.

(6) No person shall accept delivery of alloy ingots, copper clad steel scrap or unreloadable fired artillery cases, cartridge cases or bullet jackets, which have been manufactured from copper, copper-base alloys or copper clad steel, in excess of ten (10) pounds, or of copper base alloy scrap containing 0.1% or more of beryllium by weight, except as specifically authorized by the Director General for Operations.

(7) A person other than a brass mill or dealer shall accept a delivery of scrap, other than that specified in paragraph (b) (6) above, only pursuant to a specific authorization of the Director General for Operations.

(8) A brass mill shall accept no delivery of scrap other than brass mill scrap without the specific authorization of the Director General for Operations.

(9) A scrap dealer shall accept delivery of scrap only if:

(i) Such scrap is not of a kind or grade specified in paragraph (b) (6) above, and

(ii) Such scrap dealer shall during the preceding 60 days, have sold or otherwise disposed of scrap to an amount at least equal in weight to the scrap inventory of such scrap dealer on the date of acceptance of delivery of scrap (which inventory shall exclude such delivery), and

(iii) Such scrap dealer shall have filed with the Bureau of Mines, College Park, Maryland, by the 10th of each month, Form PD-249, and

(iv) Such scrap dealer shall have supplied such other information as the Director General for Operations may from time to time require.

(10) No person shall dispose of any material, the delivery of which he accepted as scrap, other than as scrap in the manner provided in this paragraph (b), except with the specific authorization of the Director General for Operations.

(c) *Melting or processing of scrap, copper clad steel scrap or alloy ingots.* (1) No person other than a brass mill shall melt or process scrap, copper clad steel scrap or alloy ingots, without the specific authorization of the Director General for Operations.

(2) No brass mill shall melt or process any scrap other than brass mill scrap, without the specific authorization of the Director General for Operations.

(3) Any person accepting a delivery of scrap, copper clad steel scrap or alloy ingots shall use such scrap, copper clad steel scrap or alloy ingots only for the purposes for which acceptance of such delivery is authorized by the Director General for Operations.

(d) *Delivery to or acceptance of copper by foundries and makers of alloy ingots.* Notwithstanding any preference rating, no person shall deliver any copper to a foundry or to a maker of alloy ingots, and no foundry or maker of alloy ingots shall accept any such delivery,

except as specifically authorized by the Director General for Operations.

(e) *Authorization*—(1) *Basis of authorization.* Authorization to receive deliveries of, melt or process copper, scrap, copper clad steel scrap, or alloy ingots will be given by the Director General for Operations to assure the satisfaction of the most essential war requirements.

(2) *Application for authorization.* (i) Any person desiring to obtain an authorization, pursuant to this order, to accept the delivery of, melt or process copper, alloy ingot, scrap or more than ten (10) pounds of unreloadable fired artillery cases, cartridge cases or bullet jackets which have been manufactured from copper or copper base alloys, should make application on Form PD–59, Copper Division, War Production Board, by the 5th of each month.

(ii) Any person applying for an authorization to accept delivery of copper clad steel scrap or more than ten (10) pounds of unreloadable fired artillery cases, cartridge cases or bullet jackets which have been manufactured from copper clad steel must furnish the Director General for Operations with a letter setting forth the kind and grade of material, the tonnage, the period during which deliveries must be received, and the end use into which products produced out of such material will go.

(3) *Proof of authorization*—(i) *Refined copper.* Any foundry or ingot maker authorized to purchase specified amounts of refined copper under the terms of an allocation certificate must submit the allocation certificate issued to him to his supplier at the time of placing his order. If the order is placed with a dealer, the allocation certificate must be surrendered to the dealer. If the order is placed with a refiner, the allocation certificate must be endorsed by the refiner, specifying the quantity of refined copper which the refiner will deliver.

(ii) *Alloy ingot, scrap or copper clad steel scrap.* Any person authorized to purchase specified amounts of alloy ingot, scrap or copper clad steel scrap may notify his supplier of his right to make a purchase by endorsing on, or attaching to, each contract or purchase order placed by him under the terms of the authorization, a certification in the following form signed by an official duly authorized for such purpose:

Certification: The undersigned purchaser hereby represents to the seller and to the War Production Board that he is entitled to purchase the items shown on this purchase order pursuant to Allocation Certificate, Serial No. ——— for the month of ——— ——— and that receipt of these items, together with all other orders placed by him, will not result in his receiving more alloy ingot, scrap or copper clad steel scrap, than he has been authorized to receive for the month indicated by such purchase order pursuant to said Allocation Certificate.

Name of purchaser	Address
Signature and title of duly authorized official	Date

The person receiving the certification shall be entitled to rely on such certification unless he knows or has reason to believe it to be false. Each person supporting a purchase order by such a certification must maintain at his regular place of business all documents, including purchase orders and preference rating orders and certificates, upon which he relies as entitling him to make such purchases, segregated and available for inspection by representatives of the War Production Board, or filed in such manner that they can be readily segregated and made available for such inspection.

(f) *Disposal of scrap or copper clad steel scrap, generated through fabrication or accumulated through obsolescence.* No person shall use, melt, or dispose of any scrap or copper clad steel scrap generated in his plant through fabrication or accumulated in his operations through obsolescence, in any way other than by sale or delivery to a person authorized to accept such delivery, without the specific authorization of the Director General for Operations. In no event shall any person keep on hand more than thirty days' accumulation of scrap or copper clad steel scrap unless such accumulation aggregates less than one ton. All persons generating scrap or copper clad steel scrap through fabrication or accumulating scrap or copper clad steel scrap through obsolescence, in excess of five hundred pounds in any calendar month, shall report on Form PD–226 on or before the 5th day of the following month, to the War Production Board, Ref: M–9–b, setting forth inventory of scrap and copper clad steel scrap at the beginning of the previous calendar month, accumulations and sales during such month, inventory at the end of such month and such other information as the Director General for Operations may request from time to time. Nothing herein contained shall prohibit any public utility from using in its own operations wire or cable which has become scrap by obsolescence provided the lengths of such wire or cable are in excess of five feet and the quantity of such material so used by such public utility in any calendar month does not exceed five tons or such other amount as the Director General for Operations may specifically authorize.

(g) *Toll agreement.* No person shall deliver scrap, copper clad steel scrap or alloy ingots and no person shall accept same for converting, remelting or other processing under any existing or future toll agreement, conversion agreement or other form of agreement by which title remains vested in the person delivering the scrap, copper clad steel scrap or alloy ingots or causing the scrap, copper clad steel scrap or alloy ingots to be delivered, or which agreement is contingent upon return of processed material in any quantities, equivalent or otherwise, to the person delivering or causing the scrap, copper clad steel scrap or alloy ingots to be delivered, unless and until such an agreement shall have been approved by the Director General for Operations. Any person desiring to have such an agreement approved must furnish the War Production Board a letter setting forth the names of the parties to such agreement, the material involved as to kind and grade, the form of same, the estimated tonnage involved, the estimated rate of delivery, the length of time such agreement or other similar agreement has been in force, the duration of the agreement, the purpose for which the processed material is to be used, and any other pertinent data that would justify such approval.

(h) *Restriction on acceptance of copper-base alloys or castings, including alloy ingots, made therefrom.* No person shall knowingly accept delivery of copper-base alloys or castings, including alloy ingots, made therefrom, which have been obtained by melting and processing scrap or copper clad steel scrap delivered to a melter or processor contrary to the provisions of this order.

(i) *Specific directions.* The Director General for Operations may from time to time issue specific directions to any person as to the source, destination, amount, or grade of scrap, copper clad steel scrap or alloy ingots to be delivered, acquired or used by such person.

(j) *Reports.* In addition to the reports specified in this order, each ingot maker shall file by the 5th of each month, Form PD–751, Ingot Makers Report of Copper Base Alloy Ingot and each foundry shall file by the 5th of each month, Form PD–59–B, Copper Foundries: Monthly Report of Copper Base Alloy Ingot Inventory.

(k) *Violations.* Any person who wilfully violates any provision of this order or who wilfully furnishes false information to the Director General for Operations in connection with this order is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries or from processing or using material under priority control and may be deprived of priorities assistance.

(l) *Addressing of communications.* All applications, statements, or other communications filed pursuant to this order or concerning the subject matter hereof, should be addressed Copper Division, War Production Board, Ref: M–9–b, Washington, D. C.

Issued this 11th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43–3827; Filed, March 11, 1943; 11:19 a. m.]

PART 1052—KITCHEN, HOUSEHOLD AND OTHER MISCELLANEOUS ARTICLES

[Interpretation 1 to Supplementary Limitation Order L–30–a, as Amended Feb. 11, 1943]

GALVANIZED WARE AND NON-METAL COATED METAL ARTICLES

The following interpretation is hereby issued by the Director General for Operations with respect to § 1052.2, Supplementary Limitation Order L–30–a, as amended February 11, 1943:

Paragraph (b) (4) of Order L–30–a, as amended February 11, 1943, refers to "liquid and dry measures (other than oil measures with flexible spouts) . . ." Oil measures which contain spouts of rigid construction but contain hinges which permit the spouts

to be raised, lowered, or otherwise moved, are to be considered "measures with flexible spouts" pursuant to paragraph (b) (4) of L-30-a.

Issued this 11th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43-3828; Filed, March 11, 1943; 11:19 a. m.]

PART 1133—MOLYBDENUM

[Interpretation 1 of General Preference Order M-110, as Amended Jan. 9, 1943]

The following official interpretation is hereby issued by the Director General for Operations with respect to § 1133.1, General Preference Order M-110, as amended January 9, 1943.

Attention has been called to a misunderstanding current among some of the producers of molybdenum chemicals and their customers, relative to the extent to which molybdenum bearing chemical compounds are covered by the provisions of General Preference Order M-110. The definition of molybdenum in paragraph (a) (1) of the order, contains the following language:

(ii) ------ and all chemical or other combinations of the element molybdenum with other materials ------, from which molybdenum is commercially recoverable, ------.

The words "chemical or other combinations" are modified by the phrase "from which molybdenum is commercially recoverable." The test, therefore, for determining whether or not a given chemical compound is within the definition of molybdenum is the commercial practicability of recovering molybdenum from such compound. In general, the only chemical compounds from which molybdenum is considered to be commercially recoverable for the purposes of administering order M-110, are primary chemical compounds such as those which are required to be reported on Form PD-359, prescribed pursuant to the order, viz, calcium molybdate, molybdenum oxide, molybdenum oxide briquettes, molybdenum trioxide, molybdenum sulphide, molybdenum silicide, ammonium molybdate and sodium molybdate. On the other hand, molybdenum is not considered to be commercially recoverable from secondary chemical products resulting from the further processing of one or more of the primary forms of molybdenum-bearing chemical compounds such as, for example, inks and manufactured colors.

It follows, therefore, that all persons engaging in transactions in the types of primary molybdenum chemicals exemplified by the products listed on Form PD-359 are required to comply with the provisions of General Preference Order M-110 and that by the same token, such persons are entitled to the applicable exemptions set forth in Supplementary Order M-110-a.

Issued this 11th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43-3824; Filed, March 11, 1943; 11:24 a. m.]

PART 1297—MATERIAL ENTERING INTO THE PRODUCTION OF REPLACEMENT PARTS FOR PASSENGER AUTOMOBILES, LIGHT, MEDIUM AND HEAVY MOTOR TRUCKS, TRUCK TRAILERS, PASSENGER CARRIERS, OFF-THE-HIGHWAY MOTOR VEHICLES, AND MOTORIZED FIRE EQUIPMENT

[Limitation Order L-158, as Amended March 11, 1943]

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The fulfillment of requirements for the defense of the United States having created a shortage in the supply of aluminum, chromium, copper, nickel, and other materials required for the production of replacement parts for passenger automobiles, light, medium and/or heavy motor trucks, truck trailers, passenger carriers, off-the-highway motor vehicles and motorized fire equipment for defense, for private account and for export, the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1297.1 *Limitation Order L-158*—(a) *Applicability of War Production Board regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the regulations of the War Production Board as amended from time to time.

(1) *Protection of production schedules.* Producers of replacement parts under the terms of this order must, notwithstanding the provisions of Priorities Regulation No. 1 (Part 944), schedule their production of replacement parts as if the orders therefor bore a rating of AA-2X.

(2) *Sequence of deliveries.* Notwithstanding the provisions of Priorities Regulation No. 1 (Part 944), delivery of replacement parts may be made by producers and distributors without regard to orders bearing preference ratings of AA-3 or lower.

(3) *Correction of critical shortages.* Whenever the Director General for Operations determines that a critical shortage exists in respect to replacement parts, he may order any producer to schedule and deliver his production in such manner as will relieve the shortage.

(b) *Definitions.* For the purposes of this order:

(1) "Replacement parts" for passenger automobiles, light, medium and heavy motor trucks, truck-trailers, passenger carriers, off-the-highway motor vehicles and motorized fire equipment means only the following enumerated parts (including components entering into such parts) used for the repair or maintenance of such vehicles, but does not include any parts specially designed for military vehicles:

(i) For all such vehicles: (1) engines (component parts only), (2) clutches, (3) transmissions, (4) propeller shafts, (5) universal joints, (6) axles, (7) braking systems, (8) wheels, (9) tire valve assemblies, (10) starting apparatus, (11) frame and spring suspension assemblies, except spring covers and spring clip cover tubes, (12) shock absorbers, (13) speedometers, (14) driving mirrors, (15) windshield wiper assemblies, (16) steering apparatus, (17) exhaust systems, (18) cooling systems including radiator shells supporting radiator cores, (19) fuel systems, but not locking type gas caps, (20) bulk tubing for fuel, oil, brake and door-actuating lines, but not copper tubing unless permitted under Limitation Order L-106, (21) lubricating systems, (22) electrical systems including generators, motors, lights, reflectors, signal horns and bulk or spool primary wire, spark plug wire, battery cable and magnet wire, (23) safety glass and channels, (24) hood, door and rear deck actuating devices.

(ii) In addition, but only for medium and heavy motor trucks, truck-trailers, passenger carriers, off-the-highway motor vehicles, and motorized fire equipment: (25) power dividers and take-offs, (26) governors, (27) transfer cases, (28) fusees and flares, (29) directional signals, (30) coupling devices, (31) trailer

landing gears, (32) cabs and seats, (33) front fenders (only that type which supports built-in lighting), (34) defroster heaters, (35) truck refrigeration units, (36) liquid measuring gauges, (37) body mechanical and hydraulic hoists (component parts only), (38) tachometers, (39) doors and door hardware.

(iii) In addition, but only for passenger carriers and motorized fire equipment: (40) body structural repair parts, (41) sash, (42) destination signs, (43) fare boxes, (44) guards and grab rails, (45) door-operating mechanisms, (46) signaling devices, (47) heating and ventilating equipment.

(2) "Rebuilt or reconditioned parts" means any replacement parts (defined in paragraph (b) (1) above) which have been used and restored for use through rebuilding or reconditioning operations.

(3) "Parts consumed in use" means those replacement parts whose function in the operation of the vehicle results in a dissipation or deterioration of material, either in whole or in part, so that the residue has no salvage value.

(4) "Passenger automobile" means any passenger vehicle, including station wagons and taxicabs propelled by an internal combustion engine and having a seating capacity of less than eleven (11) persons.

(5) "Light truck" means a complete motor truck or truck-tractor with a maximum gross vehicle weight rating of less than 9,000 pounds, as authorized by the manufacturer thereof, or the chassis therefor.

(6) "Medium and/or heavy motor truck" means a complete motor truck or truck-tractor with a maximum gross vehicle weight rating of 9,000 pounds or more, as authorized by the manufacturer thereof, or the chassis therefor.

(7) "Truck trailer" means a complete semi-trailer or full trailer designed for transportation of property or persons, or the chassis therefor.

(8) "Passenger carrier" means a complete motor coach for passenger transportation, having a seating capacity of not less than eleven (11) persons.

(9) "Off-the-highway motor vehicle" means a motor truck, truck-tractor and/or trailer, operating off the public highway, normally on rubber tires and specially designed to transport materials, property or equipment on mining, construction, logging or petroleum development projects.

(10) "Motorized fire equipment" means the chassis of a passenger automobile, light, medium or heavy motor truck, truck-tractor or trailer, used for the transportation of fire-fighting personnel or equipment.

(11) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons whether incorporated or not.

(12) "Producer" means any individual, partnership, association, corporation, or other form of business enterprise engaged in the manufacture of replacement parts as defined in paragraph (b) (1) above.

(13) "Distributor" means any person not a producer whose business consists, in whole or in part, of the sale of replacement parts, as defined in paragraph (b) (1) above, from inventory. Distributor includes wholesalers, jobbers, dealers, retailers and other persons performing a similar function including garages and service stations.

(14) "Consumer" means the owner or operator of the automotive vehicle for which replacement parts are acquired, or the user of such replacement parts for any other purpose.

(15) "Inventory" means a stock of replacement parts, as defined in paragraph (b) (1) above, on hand, on consignment, or held for the account of the owner thereof in any other name, manner or place. Inventory is not to include any rebuilt or reconditioned parts.

(c) *Prohibitions on production.* No producer shall manufacture any parts for passenger automobiles, light, medium and heavy trucks, truck-tractors, truck-trailers, passenger carriers, off-the-highway motor vehicles, and motorized fire equipment except the replacement parts enumerated in paragraph (b) (1) above, items 1 to 47 inclusive.

(2) In the production of replacement parts, no materials shall be used which are prohibited by any orders or other restrictions on use of critical materials now or hereafter ordered by the Director General for Operations.

(d) *Restrictions on production and purchases.* (1) On and after April 1, 1943, no producer may manufacture or purchase replacement parts at such a rate that his production and purchases increase his inventory of finished replacement parts at dollar cost value at the end of any quarter of 1943 above his inventory on April 1, 1943. Producers shall have a period of sixty (60) days following the end of each quarter within which to determine inventory and to increase or decrease production or purchases so as to bring the inventory into compliance with this paragraph.

(2) Until April 1, 1943 the production of replacement parts shall be governed by the provisions of paragraph (e) (2) and (f) (2) of Limitation Order L–158, as amended January 25, 1943.

(e) *Standardization of production.* On and after April 1, 1943, production of the replacement parts named below shall be made only according to the following standards:

(1) Pistons as components of engines shall be produced only in standard sizes and the following oversizes: .005, .020, .030, .040, .060, and semi-finished.

(2) Piston pins as components of engines shall be produced only in standard sizes and the following oversizes: .003, .005.

(3) Piston rings as components of engines shall be produced only in standard sizes and the following oversizes: .020, .030, .040, .060, and in addition for medium and heavy duty trucks and buses, .080, .100.

(4) Engine bearings as components of engines shall be produced only in standard sizes and the following oversizes: .002, .010, .020, .030, semi-finished; in addition, the above sizes may be produced in the following oversizes on outside diameter in those types of connecting rod bearings that oscillate in the connecting rod: Standard, .005, .010 oversize. In addition, the "special length Ford main bearings" may be produced.

(f) *Return of replacement parts.* Replacement parts, returned by a distributor to a producer or to another distributor, if not included in the inventory of the person receiving the parts during the calendar quarter in which received, shall be included in his inventory in the next succeeding calendar quarter.

(g) *Restrictions on sales to consumers.* (1) No producer or distributor shall sell or deliver any replacement part to a consumer unless the consumer delivers to the producer or distributor concurrently with the purchase a used replacement part (excepting in the case of cab assemblies and parts consumed in use, lost or stolen) of similar kind and size for each replacement part delivered to a consumer. No replacement part shall be sold or delivered to a consumer to replace a part which the producer or distributor can recondition by use of available reconditioning facilities.

(2) Notwithstanding the provisions of paragraph (g) (1) above, a producer or distributor may sell and deliver any replacement part to a consumer without receiving a used part in exchange therefor, *Provided,* That:

(i) The producer or distributor does not install such part in the consumer's vehicle (except that he may sell and install any of the following replacement parts: for all vehicles—oil filters; for medium and heavy trucks, truck-tractors, truck trailers, passenger carriers, off-the-highway motor vehicles and motorized fire equipment — auxiliary springs, trailer connections, brakes, fifth wheels, auxiliary fuel tanks, governors, and landing gears; provided the installation of such parts will either improve the efficiency of the vehicle, increase its gross vehicle weight capacity or convert the type of vehicle to a use needed in the consumer's locality); and

(ii) The consumer signs and delivers to the producer or distributor concurrently with each purchase order (or on the written confirmation thereof if such order is placed by telephone or telegram) a certificate in the following form:

CONSUMER'S CERTIFICATE

I hereby certify that: (a) The replacement parts specified in this order are essential for the maintenance or repair of vehicle(s) I now own or operate; (b) these parts will be used for replacement of parts which, to the best of my knowledge, cannot be reconditioned by use of available facilities; and (c) I will, within thirty days after receiving the new part(s), dispose of through scrap channels a used part(s) (excepting in the case of cab assemblies and parts consumed in use, lost or stolen) of similar kind and size for each new replacement part delivered to me, except as to those parts described in para-

graph (g) (2) (i) of Order L–158, which I further certify will either improve the efficiency of the vehicle, increase its gross vehicle weight capacity, or convert it to a type needed in this locality.

(Signed) _____
Vehicle owner or operator

(Address) _____

Dated _____

The foregoing certificate must be retained by the producer or distributor making the sale to the consumer as part of his records. The provisions of this paragraph (g) as to the return of used parts shall not apply to any Federal or Territorial Department, Bureau or Agency, or to a State or political subdivision thereof, which is forbidden by law from making such disposal of replacement parts.

(h) *Restrictions on distributors' inventories.* (1) No distributor, whose place of business is located in the Eastern or Central war time zone, shall order more than a thirty-day (30) supply of replacement parts. No such distributor shall accept delivery of replacement parts which, in combination with his existing inventory of replacement parts measured in total dollar cost value, will exceed a sixty-day (60) supply. Sixty-day supply means a supply in dollar cost value equal to two-thirds of the distributors total sales, at his cost of such parts, in the preceding quarterly period.

(2) No distributor, whose place of business is located in any other war time zone, shall order more than a forty-five (45) day supply of replacement parts. No such distributor shall accept delivery of replacement parts which, in combination with his existing inventory of replacement parts measured in total dollar cost value, will exceed a ninety-day (90) supply. Ninety-day supply means a supply in dollar cost value, equal to the distributor's total sales, at his cost of such parts, in the preceding quarterly period.

(3) Irrespective of the restrictions in subparagraphs (1) and (2) above, a distributor may accept delivery of specific items of replacement parts even though his inventory then exceeds, or will by reason of such acceptance exceed, his maximum permissible inventory as specified in subparagraphs (1) and (2) above. The quantity of such specific items in dollar cost value shall not exceed the dollar cost value of his sales of such items during the preceding thirty days or the last thirty-day period in which a sale was made if the distributor is located in the Eastern or Central war time zones, and forty-five days in all other zones.

(4) No distributor may keep in his inventory, in his possession or under his control, for a period of more than thirty days, any used, traded-in, imperfect or condemned replacement parts which cannot be reconditioned, but he must dispose of the same through the customary disposal or scrap channels. Traded-in parts shall be reconditioned as quickly as minimum quantities will permit. Used parts acquired by a distributor to be sold in "as is" condition need not be included in the distributor's inventory.

(5) Replacement parts consigned to a distributor are not to be considered as part of the distributor's inventory.

(i) *Emergency orders for replacement parts.* Notwithstanding the provisions of paragraph (h) above, a distributor may order and accept delivery of any replacement part which he does not have in stock when the same is required for repair of a designated vehicle which cannot be operated without such part. In such emergency, to secure a replacement part under this paragraph (i), a distributor must file with his order to the producer for said part a certificate in the following form:

CERTIFICATE FOR EMERGENCY ORDER

I hereby certify that the replacement part specified in the attached order is essential for the repair of the following vehicle, which cannot now be operated without such part:
Make _____ Engine number: _____

(Signed) _____
Firm, partnership or corporation

(By) _____
Title of individual

Dated _____ _____
Address of firm, partnership or corporation

A copy of each such certificate must be retained by the distributor issuing such certificate as a part of his records. A producer or other distributor to whom any such emergency order is submitted must give such order precedence in shipment over other orders not of an emergency nature.

(j) *Certificate by distributor required.* Whenever a distributor places an order for replacement parts, each order must be accompanied by a certificate in the following form:

CERTIFICATE OF COMPLIANCE WITH ORDER L–158

The quantity of replacement parts ordered on the attached purchase order does not exceed the quantity which I am entitled to purchase under the provisions of Limitation Order L–158, with the terms of which I am familiar.

(Signed) _____
Firm, partnership or corporation

(By) _____
Title of individual

Dated _____ _____
Address of firm, partnership or corporation

A copy of each such certificate must be retained by the distributor as part of his records.

(k) *Preference ratings required on sales by distributors to Army, Navy and Maritime Commission.* Irrespective of the provisions of any of the paragraphs of this order, no distributor shall sell any replacement parts, as defined in paragraph (b) (1) above, to or for the account of the Army or Navy of the United States or the United States Maritime Commission, except upon receipt of an order bearing a preference rating of AA–1 or higher.

(l) *Exceptions to applicability of this order.* The terms and restrictions of this order, except paragraph (a) (2) shall not apply, except as provided for in paragraph (k) above, to any replacement parts sold to or produced under contracts or orders for delivery to or for the account of:

(1) The Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Civil Aeronautics Administration, the National Advisory Committee for Aeronautics, the Offices of Scientific Research and Development;

(2) The government of any of the following countries: Belgium, China, Czechoslovakia, Free French, Greece, Iceland, Netherlands, Norway, Poland, Russia, Turkey, United Kingdom, including its Dominions, Crown Colonies, and Protectorates, and Yugoslavia;

(3) Any agency of the United States Government, for delivery to, or for the account of, the government of any country listed above, or any other country, including those in the Western Hemisphere, pursuant to the Act of March 11, 1941, entitled, "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(4) Any person located outside of the forty-eight States and the District of Columbia.

(m) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(n) *Reports.* All persons affected by this order, shall execute and file with the War Production Board such reports and questionnaires as the Board shall from time to time request. No reports or questionnaires are to be filed by any person until forms therefor are prescribed by the War Production Board.

(o) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(p) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact, or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, materials under priority control and may be deprived of priorities assistance.

(q) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds for appeal.

(r) *Communications.* All communications concerning this order shall, unless otherwise directed, be addressed to: War Production Board, Automotive Division, Washington, D. C., Ref.: Order L–158.

Issued this 11th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43–3823; Filed, March 11, 1943; 11:24 a. m.]

PART 3201—MINING EQUIPMENT

[Limitation Order L–269]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain critical materials used in the production of mining equipment for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 3201.1 *Limitation Order L–269*—(a) *Definitions.* For the purposes of this order:

(1) "Mining equipment" means any complete equipment or apparatus of the types, descriptions, and classifications set forth on List A hereto annexed.

(2) "Repair part" means any part manufactured for use in the repair and maintenance of mining equipment.

(3) "Manufacturer" means any person who constructs or manufactures mining equipment to the extent that he is engaged in such construction or manufacture.

(b) *Production and deliveries of mining equipment.* (1) On or before March 25, 1943, and on or before the 15th of each succeeding calendar month, each manufacturer shall file in triplicate on form PD–815 a schedule of proposed production and deliveries and a report of the previous calendar month's shipments and orders.

(2) On and after April 1, 1943, each manufacturer shall produce and deliver mining equipment only in accordance with the schedule filed pursuant to paragraph (b) (1) or as the same may be changed by the Director General for Operations.

(3) With respect to mining equipment, the Director General for Operations may:

(i) Direct the return or cancellation of any order on the books of a manufacturer.

(ii) Direct changes in the production or delivery schedule of a manufacturer.

(iii) Allocate orders placed with one manufacturer to another manufacturer, or

(iv) Take such other action, as he deems necessary, with respect to the placing of orders for, or the production or delivery of, mining equipment.

(c) *Repair parts.* The Director General for Operations may direct the quantity and type of repair parts to be produced or delivered by any manufacturer in any calendar month, and he may direct changes in any manufacturer's production or delivery schedule for mining equipment so as to provide for adequate production or delivery of repair parts.

(d) *Substitution and conservation of critical materials.* In the manufacture of any item of mining equipment or repair parts, no manufacturer shall use rubber, aluminum, copper, zinc or alloy steels, except in bearings, electrical conductors, or parts subject to high stress, shock, abrasion, wear or corrosion.

(e) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

(2) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(3) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to War Production Board, Mining Equipment Division, Washington, D. C., Reference L–269.

(4) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(5) *Records and reports.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning the manufacture, sale and delivery of and orders for mining equipment and repair parts. All persons affected by this order shall execute and file with the Director General for Operations, War Production Board, such reports and questionnaires as said Director shall from time to time require.

Issued this 11th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

LIST A

Coal cutting machines
- Coal cutting machines, all types
- Trucks for cutting machines, caterpillar and track-mounted

Drills
- Coal drills, electric
- Drilling machines, core drills

Mine conveyors, underground and slope
- Conveyors, belt type
- Conveyors, chain type
- Conveyors, elevating type.
- Conveyors, shaking type
- Duckbill loading heads

Mine haulage
- Mine locomotives (not exceeding 20 tons)
- Mine cars
- Mine car couplers, automatic, cast steel
- Shuttle cars, self-propelled trackless

Mine hoists
- Hoists, portable mine, underground
- Hoists, stationary mine, shaft and slope

Mine loaders
- Loaders, underground, mucking machines
- Loaders, underground, scraper and slusher
- Loading machines, mobile underground, other

Mining equipment, specialized
- Aerial tramways
- Coal breaking equipment, cardox and airdox
- Dumpers, mine car
- Mine doors, automatic
- Miner's lamps, wet cell
- Charging racks for wet cell lamps
- Rock dust distributing machines
- Cages
- Skips

Crushing and grinding machinery, stationary, mine and smelter types
- Crushers, gyratory or cone, except those used as a part of a portable crushing plant
- Crushers, jaw, all sizes larger than 30" x 44" opening, except those smaller sizes of a type built exclusively for mining and smelting
- Crushers, vertical pick coal
- Grinding mills, ball, rod, pebble, tube
- Pulverizers, ore

Ore dressing and coal preparation machinery
- Agitators (except concrete)
- Clarifiers and thickeners
- Classifiers, hydraulic
- Classifiers, mechanical, rake, spiral
- Classifiers, pneumatic
- Concentrating tables, gravity (wet, dry)
- Conditioners, pulp
- Density controllers
- Distributors, pulp
- Driers, ore, coal, mineral
- Feeders, reagent (wet, dry)
- Filters, concentrate, gravity, pressure, vacuum
- Flotation machines, mechanical, pneumatic
- Heavy density separators (sink-float machines)
- Hydraulic separators
- Jigs, coal
- Jigs, ore
- Log washers
- Magnetic separators, ore and concentrate
- Mineral samplers, automatic, mechanical

[F. R. Doc. 43–3826; Filed, March 11, 1943; 11:19 a. m.]

PART 3211—BISMUTH CHEMICALS

[General Preference Order M–295]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of bismuth chemicals for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 3211.1 *General Preference Order M–295*—(a) *Definitions.* (1) "Bismuth chemicals" means any chemical compound of bismuth, in crude or refined form, including, but not limited to, bismuth subcarbonate, bismuth subnitrate, bismuth subsalicylate, bismuth nitrate, bismuth hydrate, sodium bismuthate, etc. The term does not include standard dosage forms (tablets, capsules, ampoules, liquid preparations, etc.).

(2) "Producer" means any person engaged in the production of bismuth chemicals, and includes any person who imports bismuth chemicals or has bismuth chemicals produced for him pursuant to toll agreement.

(3) "Distributor" means any person who purchases bismuth chemicals solely for the purpose of resale without further

processing and without changing the form thereof.

(b) *Restrictions on deliveries and use.* (1) On and after April 1, 1943, no person shall deliver, accept delivery of, or use bismuth chemicals, except as specifically authorized or directed by the Director General for Operations.

(2) Authorizations or directions with respect to deliveries or use in each calendar month will so far as practicable be issued by the Director General for Operations prior to the commencement of such month, but the Director General for Operations may at any time at his discretion and notwithstanding the provisions of paragraph (c) hereof, issue directions with respect to, deliveries to be made or accepted, or with respect to use or uses which may or may not be made of bismuth chemicals to be delivered or then on hand. Such authorizations or directions may be made by the Director General for Operations without regard to preference ratings applicable to particular orders.

(3) Each person specifically authorized to use or accept delivery of bismuth chemicals shall use such material for the purpose authorized, and only for such purpose, except as otherwise specifically directed by the Director General for Operations.

(4) Bismuth chemicals allocated for inventory shall not be used except as specificially directed by the Director General for Operations. Bismuth chemicals allocated to fill a specified order or class of orders shall, where and to the extent that such order or class of orders is not for any reason filled, revert to inventory as though allocated therefor.

(c) *Exceptions to requirement for authorization.* Notwithstanding the provisions of paragraph (b) (1), specific authorization of the Director General for Operations shall not be required for:

(1) Delivery by any producer or distributor to any person in any calendar month, and acceptance of delivery by any person from any producer or distributor in any calendar month, of not more than 25 lbs. of any bismuth chemical;

(2) Use by any person in any calendar month of not more than 25 lbs. of any bismuth chemical;

(3) Delivery to, or acceptance of delivery by, any person of bismuth chemicals packaged in containers of one pound or less, for resale to retail druggists, and delivery to, or acceptance of delivery by retail druggists of bismuth chemicals so packaged;

(4) Delivery of bismuth chemicals by, or use of bismuth chemicals by, the United States Army or Navy, the Coast Guard, the United States Maritime Commission and War Shipping Administration;

(5) Delivery of bismuth chemicals by any person to another person for compounding into standard dosage forms pursuant to toll agreement, where the person making delivery has received specific authority to compound such bismuth chemicals and retains title to such bismuth chemicals and to the product made therefrom; also the acceptance of delivery of bismuth chemicals by such other person for such purpose and under such terms, and the use by such other person in compounding bismuth chemicals into standard dosage forms.

(d) *Applications and reports.* (1) Each person seeking authorization to accept delivery of, or to use bismuth chemicals during any calendar month beginning with April, 1943, whether for his own consumption or resale, shall file application therefor on or before the 15th of the preceding month on Form PD–600, in the manner prescribed therein, subject to the following special instructions:

(i) Copies of Form PD–600 may be obtained at local field offices of the War Production Board.

(ii) Five copies shall be prepared, of which three shall be forwarded to War Production Board, Chemicals Division, Washington, D. C., Ref.: M–295, one forwarded to the producer or distributor with whom applicant's order is placed, and the fifth retained for applicant's file. At least one of the copies filed with War Production Board shall be signed by applicant by a duly authorized official. Where the application is solely for authorization to use, no copy will be sent to the producer or distributor.

(iii) In the heading, under "Name of chemical," specify "Bismuth chemicals" under "WPB Order No.", specify "M–295;" under "Indicate unit of measure," specify "pounds".

(iv) In heading at top of Table I, specify the month and year for which authorization for acceptance of delivery or use is sought.

(v) In Columns 1, 11 and 19, specify grade and quality; for example, subcarbonate, nitrate, sodium bismuthate, USP, etc.

(vi) In Column 3 (Primary Product), applicant will specify the exact name of the product or products in the manufacture or preparation of which he will use bismuth chemicals or in which he will incorporate bismuth chemicals. Distributors ordering bismuth chemicals for resale, will specify "Resale". If purchase is for inventory, specify "Inventory".

(vii) In Column 4, applicant will specify in each case (including case where his purchase is for "resale") ultimate use to be made of product (as, for example, "medicinal"), and will also specify in each case whether his customer is Army, Navy, other government agency, Lend-Lease, or commercial customer. If application is for bismuth chemicals for inventory, leave Column 4 blank.

(2) Each producer or distributor seeking authorization to make delivery of bismuth chemicals during any month, beginning with April, 1943, shall file application therefor on or before the 20th day of the preceding month. Such application shall be made on Form PD–601 in the manner prescribed therein, subject to the following special instructions:

(i) Copies of Form PD–601 may be obtained at local field offices of the War Production Board.

(ii) Four copies shall be prepared, of which three shall be forwarded to War Production Board, Chemicals Division, Washington, D. C., Ref: M–295, the fourth to be retained by the producer or distributor.

(iii) Each producer who has filed application on Form PD–600 specifying himself as his supplier, shall list his own name as customer on Form PD–601 and shall list his request for allocation in the manner prescribed for other customers.

(iv) In the heading under "Name of chemical", specify "Bismuth chemicals"; under "WPB Order No.", specify "M–295"; under "This schedule is for deliveries to be made during month of _____", specify month and year during which deliveries covered by application are to be made; under "Indicate unit of measure", specify "pounds".

(v) In Column 1, list customers and if it is necessary to use more than one sheet, number each sheet in order and show grand totals for all sheets on the last sheet, which is the only one that need be certified. It is not necessary, however, to list names of customers to whom deliveries are to be made during the next month pursuant to paragraphs (c) (1) and (c) (3) of this order, but insert in Column 1 "Total small order and small package deliveries (estimated)", and in Column 4, state the estimated quantity. Although under paragraph (c) (4), deliveries to the government agencies there listed need not be authorized, proposed deliveries to such agencies should be listed separately in Column 1, and the quantity to be delivered specified in Column 5.

(vi) In Columns 3 and 8, the producer or distributor will specify grades and quality, as indicated in the Forms PD–600 filed with him by his customers.

(vii) The producer or distributor may, if he wishes, leave Column 5 blank.

(3) The Director General for Operations may require each person affected by this order to file such other reports as may be prescribed, and may issue special directions to any such person with respect to preparing and filing Forms PD–600 and PD–601.

(e) *Notification of customers.* Each supplier shall notify his regular customers as soon as possible of the requirements of this order, but failure to receive such notice shall not excuse any person from complying with the terms hereof.

(f) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

(2) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(3) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to War Production Board, Chemicals Division, Washington, D. C., Ref.: M–295.

Issued this 11th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43–3825; Filed, March 11, 1943; 11:19 a. m.]

Chapter XI—Office of Price Administration

PART 1340—FUEL

[Correction to Amendment 70 to RPS 88[1]]

PETROLEUM AND PETROLEUM PRODUCTS

Section 1340.158a (sss) of Amendment No. 70 to Revised Price Schedule No. 88 is corrected to read as set forth below:

§ 1340.158a. *Effective dates of amendments.* * * *

(sss) Amendment No. 70 to Revised Price Schedule No. 88 shall become effective as follows:

(1) As to the maximum price of 10 cents per gallon for kerosene, No. 1 fuel oil and range oil, at seller's yard for deliveries in containers in quantities of ten gallons or less, February 20, 1943, and shall, unless earlier revoked or replaced, expire on April 15, 1943.

(2) As to the maximum price of 11.7 cents per gallon for tank wagon deliveries of kerosene, No. 1 fuel oil and range oil in quantities of less than 25 gallons and truck deliveries in containers in quantities of less than 25 gallons, February 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March, 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3807; Filed, March 10, 1943; 2:58 p. m.]

PART 1340—FUEL

[RPS 88,[2] Correction to Amendment 73]

PETROLEUM AND PETROLEUM PRODUCTS

In § 1340.159 (c) (3) (xviii), the phrase "in subdivisions (xiv), (xv), (xvi) and (xvii)" is corrected to read: "in subdivisions (xi), (xiv), (xv), (xvi) and (xvii)".

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3808; Filed, March 10, 1943; 2:59 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 285,[1] as Amended March 10, 1943]

IMPORTED FRESH BANANAS, SALES EXCEPT AT RETAIL

By Amendment 2, §§ 1351.1252 (a) and 1351.1267 are amended, and §§ 1351.1253 (e) and 1351.1261 (c) are added, so that Maximum Price Regulation 285 shall read as follows:

In the judgment of the Price Administrator, war shipping conditions and other factors affecting the sale of fresh bananas by importers and by wholesalers have resulted in the establishment under the General Maximum Price Regulation of maximum prices for such sales which are not best calculated to assist in securing equitable distribution of fresh bananas. The Price Administrator has determined to replace these maximum prices by maximum prices established in this regulation. In the issuance of this regulation, the Price Administrator has ascertained and given due consideration to the prices of fresh bananas prevailing between October 1 and October 15, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practicable, the Price Administrator has advised and consulted with representatives of the industry which will be affected by this regulation.

In the judgment of the Price Administrator, the maximum prices herein established for importers and wholesalers of fresh bananas are generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250. A statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.[2]

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, Maximum Price Regulation No. 258 is hereby issued.

Sec.

1351.1251 Applicability of this Maximum Price Regulation No. 285.
1351.1252 How an importer establishes his maximum price for each kind of fresh bananas.
1351.1253 How a wholesaler calculates his maximum price for each kind of fresh bananas as set forth in Appendix A.
1351.1254 Information which each importer and wholesaler must pass on to his purchaser.
1351.1255 Fractions of cents
1351.1256 Customary allowances
1351.1257 Relationship between this regulation and the General Maximum Price Regulation
1351.1258 Evasion
1351.1259 Enforcement
1351.1260 Petitions for amendment
1351.1261 Records and reports
1351.1262 Export sales
1351.1263 Exempt sales
1351.1264 Definitions
1351.1265 Geographic applicability
1351.1266 Effective date
1351.1266a Effective dates of amendments.
1351.1267 Appendix A: Figures to be used by wholesalers in calculating maximum prices under § 1351.1253 of this regulation.

AUTHORITY: §§ 1351.1251 to 1351.1267, inclusive, issued under Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871.

§ 1351.1251 *Applicability of this Maximum Price Regulation No. 285*—(a) *Commodity to be priced under this regulation.* This regulation applies only to fresh bananas, imported for sale within the continental limits of the United States.

(b) *To what types of sellers this regulation applies.* This regulation applies to importers and all wholesalers, as defined herein, of fresh bananas.

(c) *Purposes of this regulation.* The purposes of this regulation are to replace the maximum prices established by the General Maximum Price Regulation for importers and wholesalers by maximum prices set forth as follows:

(1) Section 1351.1252 sets forth maximum prices for importers for each kind of fresh bananas, per cwt., f. o. b. port of entry.

(2) Appendix A, § 1351.1267, sets forth the figures which all wholesalers must use in calculating maximum prices.

(d) *Prohibition against sales above maximum prices.* On and after December 18, 1942, regardless of any contract or other obligation, no person shall sell or deliver fresh bananas at prices higher than the maximum prices established by this regulation, and no person shall buy or receive fresh bananas in the course of trade or business at prices higher than the maximum prices. Lower prices than the maximum prices may be charged and paid.

[NOTE: Supplementary Order No. 7 (7 F.R. 5176) provides that the prohibition contained in any price regulation against buying or receiving any commodity or service at a price higher than the maximum price permitted by such regulation shall not apply to any war procurement agency, or government whose defense is vital to the defense of the United States.]

§ 1351.1252 *How an importer establishes his maximum price for each kind of fresh bananas.* (a) The maximum price per cwt. at which any importer may sell, offer to sell or deliver each kind of fresh bananas, f. o. b. any port of entry within the continental limits of the United States shall be:

Country of origin (Kind of fresh bananas)	*Maximum prices per cwt. f. o. b. port of entry per cwt.*
Costa Rica, Panama, Guatamala, Honduras	$5.50
Mexico: States of Chiapas and Tabasco	4.50
All other bananas from Mexico	3.25
Bananas from any country not listed above	4.00

(b) If an importer makes a sale of any kind of fresh bananas for delivery to a place other than the port of entry to or through which the fresh bananas being priced were originally shipped from the country of origin, his maximum price shall be the price set forth in paragraph (a) of this section, plus his actual transportation charges, which shall not exceed the lowest available common carrier rate, from the port of entry to the place where such kind of fresh bananas are to be delivered; however, no charge or cost for local unloading or local hauling shall be included. In no case shall the importer add to the maximum prices, f. o. b.

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[1] 7 F.R. 1107, 1371, 1798, 1799, 1886, 2132, 2304, 2352, 2634, 2945, 3463, 3482, 3524, 3576, 3895, 3963, 4483, 4653, 4854, 4857, 5481, 5867, 5868, 5988, 5983, 6057, 6167, 6471, 6680, 7242, 7838, 8433, 8478, 9120, 9134, 9335, 9425, 9460, 9620, 9621, 9817, 9820, 10684, 11069, 11112, 11075; 8 F.R. 157, 232, 233, 857, 1227, 1260, 1457, 1312, 1318, 1642, 1799, 2023, 2105, 2267, 2119, 2594, 2152, 2334, 2349, 2273, 2350, 2501, 2594.

[2] 7 F.R. 10481; 8 F.R. 859.

[2] Statements of considerations are also issued simultaneously with issuance of amendments. Requests for copies should be addressed to Office of Price Administration.

port of entry, any transportation charges, whether paid by him or not, from the country of origin to the port of entry.

(c) The maximum price, per cwt. at which any sales of any kind of fresh bananas may be made at the New York, N. Y., Philadelphia, Pa., and Baltimore, Md., auction markets shall be as follows:

(1) The maximum price per cwt., f. o. b. port of entry, as set forth in paragraph (a) of this section; plus

(2) The actual transportation charges, at lowest available common carrier rates, from the port of entry to the auction market where the fresh bananas are to be sold; multiplied by

(3) 1.085. The resulting figure shall be the maximum price for any sale and delivery at auction: *Provided*, That trade discounts for auction sales heretofore in effect shall be subtracted from the maximum price established herein for auction sales.

§ 1351.1253 *How a wholesaler calculates his maximum price for each kind of fresh bananas as set forth in Appendix A.* (a) For the purposes of this regulation, "wholesaler" means any wholesale seller, including, but not limited to, service and cash-and-carry wholesalers, retailer-owned cooperatives, jobbers or any other persons who purchase for the purpose of resale, except importers and retailers, and who take title and make sales to any person who is not the ultimate consumer. The term "ultimate consumer" does not include institutional, commercial or industrial users.

(b) The wholesaler shall calculate his maximum price on the effective date of this regulation and on Monday of each week thereafter for each kind of fresh bananas as follows:

(1) The wholesaler shall determine his "largest single purchase" of each kind of fresh bananas, as set forth in § 1351.1252, made during the seven days prior to Monday of each week.

(2) "Largest single purchase" means the greatest quantity (in pounds) of the kind of fresh bananas which the wholesaler is pricing, and which was purchased by him during the seven days prior to Monday of each week. For the purposes of this paragraph, "Purchase" by a wholesaler shall be deemed to have been made when actual delivery has been made to him.

(3) The wholesaler shall then determine the "delivered price" of his "largest single purchase", as defined above, of the kind of fresh bananas being priced. "Delivered price" means the maximum price, f. o. b. port of entry, for the kind of fresh bananas he is purchasing plus the actual cost of transportation from the port of entry at lowest available common carrier rates, as defined herein, to his customary receiving point, less all discounts allowed him except the discount for prompt payment; however no charge or cost for local unloading or local hauling shall be included.

(4) The wholesaler shall then multiply his "delivered price", as defined above, by the figures set forth in Appendix A applicable to him. The resulting figure is the maximum price which the wholesaler is permitted to charge.

(c) If a wholesaler purchases fresh bananas at any of the following auction markets, New York, N. Y., Philadelphia, Pa., and Baltimore, Md., he shall apply the provisions of this section to such fresh bananas purchased at auction, except that the figure by which he multiplies his "delivered price" shall be the figure set forth in Appendix A for wholesalers who purchase at auction. "Delivered price" in the case of auction sales means the maximum price per cwt., f. o. b. port of entry, plus the actual transportation charges from the port of entry to the auction market multiplied by 1.085, as set forth in § 1351.1252 (c) hereof.

(d) If the wholesaler makes no purchase of fresh bananas during any particular seven-day period his maximum price shall be based on his most recent "largest single purchase", as defined herein.

(e) If a wholesaler's maximum price as calculated under the provisions of this section and § 1351.1267 is less than the result of the following computation, the result of the following computation shall be the maximum price:

The maximum price, per cwt. f. o. b. port of entry, plus the actual cost of transportation from the port of entry, at lowest available common or contract carrier rates, to the wholesaler's customary receiving point, plus $1.50 per cwt. when sold in stems, or $1.85 per cwt., when sold in hands.

[NOTE: Supplementary Order No. 31 (7 F.R. 9894) provides that: "Notwithstanding the provisions of any price regulation, the tax on transportation of all property (excepting coal) imposed by section 620 of the Revenue Act of 1942 shall, for purposes of determining the applicable maximum price of any commodity or service, be treated as though it were an increase of 3% in the amount charged by every person engaged in the business of transporting property for hire. It shall not be treated, under any provision of any price regulation or any interpretation thereof, as a tax for which a charge may be made in addition to the maximum price."]

[NOTE: Supplementary Order No. 34 (7 F.R. 10779) permits special packing expenses to be added to maximum prices on sales to procurement agencies of the United States.]

§ 1351.1254 *Information which each importer and wholesaler must pass on to his purchaser.* Whenever an importer or wholesaler makes a sale and delivery after the effective date of this regulation, he shall supply to his purchaser an invoice, or any other written evidence of the sale, setting forth in writing the following information:

(a) The importer shall set forth:

(1) The kind of fresh bananas being sold (i. e., the country of origin as set forth in § 1351.1252 hereof),

(2) The maximum prices per cwt., f. o. b. port of entry, and actual transportation charges, if any, paid by the seller.

(3) In cases of purchases or sales at auction, the auction maximum price, as set forth in § 1351.1252 (c).

(b) The wholesaler shall state his selling price, not exceeding his maximum price.

The invoice or other written evidence of the sale, when containing the above required information, shall be deemed to be proper notification to the purchaser.

§ 1351.1255 *Fractions of cents.* Any calculation of a maximum price per cwt. by a wholesaler which results in a fraction of a cent shall be reduced to the nearest lower cent if the fraction is less than one-half cent and shall be increased to the nearest higher cent if the fraction is one-half cent or more.

§ 1351.1256 *Customary allowances.* No importer or wholesaler is permitted to change his customary allowances, discounts and price differentials, including allowances, discounts, and price differentials for different classes of purchasers, unless such change results in a lower net price. Trade discounts for auction sales heretofore in effect shall not be changed unless such change results in a lower net price.

§ 1351.1257 *Relationship between this regulation and the General Maximum Price Regulation.*[1] (a) The provisions of this Maximum Price Regulation No. 285 supersede the provisions of the General Maximum Price Regulation with respect to sales and deliveries by importers and wholesalers of fresh bananas. However, the following provisions of the General Maximum Price Regulation, as well as any amendments thereto, continue to be applicable to every importer and wholesaler selling fresh bananas:

(1) Transfers of business or stock in trade (§ 1499.5)

(2) Federal and state taxes (§ 1499.7)

(3) Current records (§ 1499.12)

(4) Sales slips and receipts (§ 1499.14)

(5) Definitions (§ 1499.20)

(b) The registration and licensing provisions of §§ 1499.15 and 1499.16 of the General Maximum Price Regulation are applicable to every person subject to this regulation.

§ 1351.1258 *Evasion.* The price limitations which are set forth in this Maximum Price Regulation No. 285 shall not be evaded, whether by direct or indirect methods, in connection with any offer, solicitation, agreement, sale, delivery, purchase or receipt of, or relationship to imported fresh bananas, alone or in conjunction with any other commodity or by way of commission, service, transportation, discount, premium, or other

[1] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317, 2029, 2110, 2346.

privilege, or by way of tying agreement, or other trade understanding, or by changing a business practice relating to the sale of imported fresh bananas or otherwise.

§ 1351.1259 *Enforcement.* Persons violating any provisions of this Maximum Price Regulation No. 285 are subject to the criminal penalties, civil enforcement actions, suits for treble damages and proceedings for suspension of licenses provided by the Emergency Price Control Act of 1942, as amended.

§ 1351.1260 *Petitions for amendment.* Persons seeking any modification of this Maximum Price Regulation No. 285 may file a petition therefor in accordance with the provisions of Revised Procedural Regulation No. 1 [4] issued by the Office of Price Administration.

[NOTE: Procedural Regulation No. 6 (7 F.R. 5087, 5665) provides for the filing of applications for adjustment of maximum prices for commodities or services under Government contracts or subcontracts. Supplementary Order No. 9 (7 F.R. 5444) makes the provisions of Procedural Regulation No. 6 applicable to all price regulations, with the exception of those on scrap, waste, and salvage materials.]

[NOTE: Supplementary Order No. 28 (7 F.R. 9619) provides for the filing of applications for adjustment or petitions for amendment based on a pending wage or salary increase requiring the approval of the National War Labor Board.]

§ 1351.1261 *Records and reports.* (a) Every person selling fresh bananas for which maximum prices are established by this regulation shall:

(1) Preserve for examination by the Office of Price Administration all his records, including invoices or other written evidences of a sale and delivery, relating to the prices which he charges pursuant to the provisions of this regulation.

(2) Prepare on or before December 31, 1942, on the basis of all available information and records, and thereafter keep for examination by any person during ordinary business hours, a statement showing all of his customary allowances, discounts and other price differentials.

(b) Every person making a sale of fresh bananas for which maximum prices are established by this regulation shall keep and make available for examination by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, is in effect, records of the same kind as he has customarily kept relating to the prices which he charges for fresh bananas after the effective date of this regulation and in addition records showing as precisely as possible the basis upon which he determined the maximum prices for fresh bananas.

(c) Each importer selling fresh bananas produced on plantations owned or operated by it or any affiliated person in Honduras, Guatemala, Costa Rica, and Panama shall:

(1) Submit to the Office of Price Administration, Washington, D. C. on or before April 15, 1943, a statement under oath setting forth in detail

(i) The total number of acres of banana plantations cultivated under full maintenance in each of the countries of origin during the year 1941 and each calendar month thereafter;

(ii) The total number of acres of banana plantations carried under reduced maintenance in each of the countries of origin during the year 1941 and during each calendar month thereafter;

(iii) The total number of employees in each of the countries of origin during the year 1941 and during each calendar month thereafter;

(iv) The average monthly payroll during the year 1941 for each of the countries of origin and the total monthly payroll during each calendar month thereafter;

(v) The amount spent for the control of disease (Sigatoka) during the year 1941 and during each calendar month thereafter, including a full and complete statement of labor and material costs;

(vi) The amount spent for maintenance of plantations, other than that reported under subdivision (v) hereof; and

(vii) A comprehensive statement of profits and/or losses covering banana operations for the years 1941 and 1942 and for the first three-month period of 1943.

(2) Submit to the Office of Price Administration, Washington, D. C. on or before the last day of each month commencing April 30, 1943, a statement under oath, setting forth in detail for the preceding calendar month, the information required by subdivisions (i) to (vi) of paragraph (c) (1) hereof. The information required by subdivision (vii) of paragraph (c) (1) shall be submitted on or before the last day of the month following each three-month period.

§ 1351.1262 *Export sales.* The maximum prices at which a person may export fresh bananas covered by this Maximum Price Regulation No. 285 shall be determined in accordance with the provisions of the Revised Maximum Export Price Regulation [5] issued by the Office of Price Administration.

§ 1351.1263 *Exempt sales.* This regulation shall not apply to sales at retail.

§ 1351.1264 *Definitions.* (a) When used in this Maximum Price Regulation No. 285 the term:

(1) "Person" means individuals, corporations, partnerships, associations, or other organized groups of persons, or legal successors, or representatives of any of the foregoing, and includes the United States or any agency thereof, any other government, or any of its political subdivisions, and any agency of any of the foregoing.

(2) "Importer" means any person who imports fresh bananas from the country of origin into the United States or who makes the first sale and delivery thereof after such importation.

(3) "Auction" means any sale and delivery of fresh bananas made pursuant to competitive bidding in the auction markets of the cities of New York, N. Y., Philadelphia, Pa., and Baltimore, Md.

(4) "Fresh bananas" means the imported fresh fruit of the banana tree.

(5) "Kind of fresh bananas" means bananas produced in certain countries or territories, such as, but not limited to, Costa Rica, Guatemala, Honduras, and Mexico.

(6) "Actual cost of transportation" shall include the actual cost of freight from the port of entry to the wholesaler's customary receiving point, and shall include charges for protective services, such as heating, icing, and messenger service.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942, as amended, shall apply to other terms used in this regulation.

§ 1351.1265 *Geographic applicability.* The provisions of this Maximum Price Regulation No. 285 shall apply to the forty-eight States of the United States and the District of Columbia.

§ 1351.1266 *Effective date.* This Maximum Price Regulation No. 285 (§§ 1351.1251 to 1351.1267, inclusive) shall become effective with respect to sales of fresh bananas except by wholesalers on December 18, 1942 and with respect to sales by wholesalers on December 28, 1942.

[§ 1351.1266 as amended by Amendment 1, 8 F.R. 10688]

§ 1351.1266a *Effective dates of amendments.*

Amendment Nos. and Issue dates:	*Effective*
Correction, 1-16-42	1-22-43
Amendment 1, 12-18-42	12-18-42
Amendment 2, 3-10-43	3-16-43

§ 1351.1267 *Appendix A: Figures to be used by wholesalers in calculating maximum prices under § 1351.1253 of this regulation.* On and after March 16, 1943 maximum prices for sales and deliveries of fresh bananas by wholesalers must be established as set forth below:

[4] 7 F.R. 8961.

[5] 7 F.R. 5059, 7242, 8829, 9000, 10530.

Column I	Column II	Column III	
Date on which wholesaler must calculate his maximum price	Basis on which wholesaler must calculate his maximum price	Figures to be multiplied by "delivered price" established as indicated in Column II	
March 16, 1943 and each Monday thereafter	"Delivered price" of the "largest single purchase" delivered at customary receiving point.	(a) Maximum mark-ups for wholesalers purchasing at port of entry: [1]	
		Sales on stem	Sales in hands
		1.35	1.46
		(b) Maximum mark-ups for wholesalers purchasing at auction:	
		Sales on stem	Sales in hands
		1.26	1.35

[1] See § 1351.1253 (e), which provides that if you compute a maximum price, using these mark-ups, of less than the seaboard maximum price plus freight plus $1.50 per cwt. when selling in stems or $1.85 per cwt. when selling in hands, you may use the following as your maximum price:
(1) The maximum price, per cwt. f. o. b. port of entry; plus
(2) Actual freight to your customary receiving point; plus
(3) $1.50 per cwt. when selling in stems; or
(4) $1.85 per cwt. when selling in hands.

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3800; Filed, March 10, 1943; 2:58 p. m.]

PART 1367—FERTILIZERS

[Rev. MPR 108]

NITROGENOUS FERTILIZER MATERIALS

The title, preamble and section numbers of Maximum Price Regulation No. 108—Nitrate of Soda, Sulphate of Ammonia and Cyanamid,[1] are amended, and renumbered to read as set forth herein.

In the judgment of the Price Administrator, it is necessary and proper to establish maximum prices of ammonium nitrate, ammonium phosphate, castor pomace, calcium cyanamide, fish meal, fish scrap, nitrate of soda, nitrate of soda-potash, sulphate of ammonia, and urea compound, when marketed or sold as an aid to the growth of crops or plants, which differ in certain areas of the country, from those heretofore established by applicable maximum price regulations. Former Maximum Price Regulation No. 108 applied only to nitrate of soda, sulphate of ammonia and cyanamid and did not apply in the States of Washington, Oregon, California, Montana, Wyoming, Idaho, Nevada, Utah, Colorado, and Arizona. In the judgment of the Price Administrator it is in the public interest to include in the same regulation all of the nitrogenous fertilizer materials which are enumerated above and to apply the regulation in all of the States as well as in the District of Columbia and Puerto Rico.

So far as practicable the Price Administrator has ascertained and given due consideration to the prices of nitrogenous fertilizer materials prevailing between October 1 and 15, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

In the judgment of the Price Administrator, the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended. A statement of the considerations involved in the issuance of this regulation has been prepared, issued simultaneously herewith, and has been filed with the Division of the Federal Register.* Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1,[2] issued by the Office of Price Administration, Revised Maximum Price Regulation No. 108 is hereby issued.

Sec.

1367.21 To what products, transactions, persons and geographical areas this regulation applies.
1367.22 Sales of nitrogenous fertilizer materials at higher than maximum prices prohibited.
1367.23 Prohibited practices.
1367.24 Records and reports.
1367.25 Enforcement and licensing.
1367.26 Petitions for amendment.
1367.27 Relation to other regulations.
1367.28 Definitions.
1367.29 Appendix A: Maximum prices of nitrogenous fertilizer materials.

AUTHORITY: §§ 1367.21 to 1367.29, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

§ 1367.21 *To what products, transactions, persons and geographical areas this regulation applies*—(a) *What products are covered.* This regulation covers ammonium nitrate, ammonium phosphate, castor pomace, calcium cyanamide, fish meal, fish scrap, nitrate of soda, nitrate of soda-potash, sulphate of ammonia, and urea compound, whether domestic or imported, designated herein as nitrogenous fertilizer materials, when marketed or sold as an aid to the growth of crops or plants.

(b) *What transactions are covered.* This regulation covers all sales of nitrogenous fertilizer materials (1) by domestic fertilizer manufacturers and their agents, and by domestic dealers, in quantities of more than 100 pounds to a consumer, and (2) all sales by fertilizer manufacturers in individual containers of 100 pounds or more to a dealer, except a sale where the nitrogenous fertilizer material has been received before March 15, 1943, by a carrier other than one owned or controlled by the seller, for shipment to a consumer, agent or dealer, in which case the shipment remains subject to the provisions of the maximum price regulation applicable at time of shipment.

(c) *What persons are covered.* Domestic fertilizer manufacturers and their agents, and domestic dealers making the sales covered by this regulation are subject to it.

(d) *Geographical areas.* The provisions of this regulation shall be applicable to the forty-eight States, the District of Columbia, and the Territory of Puerto Rico.

§ 1367.22 *Sales of nitrogenous fertilizer materials at higher than maximum prices prohibited.* On and after March 15, 1943, regardless of any contract, agreement, lease or other obligation, no fertilizer manufacturer or dealer shall sell or deliver nitrogenous fertilizer material in quantities of more than 100 pounds to a consumer, and no fertilizer manufacturer shall sell nitrogenous fertilizer material in individual containers of 100 pounds or more to a dealer, and no person in the course of trade or business shall buy or receive such nitrogenous fertilizer material at prices higher than the maximum prices set forth in Appendix A incorporated herein as § 1367.29, and no person shall agree, offer, solicit or attempt to make such a sale, purchase or delivery.

§ 1367.23 *Prohibited practices.* Any practice which is a device to get the effect of a higher-than-ceiling price without actually raising the dollars-and-cents price is as much a violation of this regulation as an outright over-ceiling price. This includes devices making use of commissions, services, transportation arrangements, premiums, special privileges, tying agreements, trade understandings and the like.

§ 1367.24 *Records and reports.* (a) Every person subject to this regulation (including a dealer, agent or other person) making a sale of nitrogenous fertilizer material, in quantities of 250 pounds or more to a consumer or dealer, after March 15, 1943, shall keep for inspection by the Office of Price Adminis-

[1] 7 F.R. 2153, 5664, 8948.

*Copies may be obtained from the Office of Price Administration.

[2] 7 F.R. 8961.

tration for so long as the Emergency Price Control Act of 1942, as amended, is in effect, complete and accurate records of each sale, showing the date thereof; the name and address of the buyer, of the person making the sale, and of the producer, importer, jobber or fertilizer manufacturer from whom the material was received; the quantity, grade and kind of the nitrogenous fertilizer material sold; the kind and size of bags or containers in which delivered; the price charged or received therefor; the terms of payment (time, cash, discounts, and maturities); and the method and conditions of delivery.

(b) (1) Not later than March 25, 1943, every fertilizer manufacturer who is engaged in the business of selling nitrogenous fertilizer material to consumers or dealers, whether by or through any agent or other person, shall file with the Office of Price Administration in Washington, D. C., a price schedule showing his maximum prices of the nitrogenous fertilizer materials offered for sale, basis f. o. b. his plant or warehouse, and where applicable, basis f. o. b. production point or delivered to buyer's delivery point; and each such price schedule shall be accompanied by a statement showing the calculations by which such maximum prices were determined by the fertilizer manufacturer under this regulation.

(2) When a fertilizer manufacturer offers to sell to consumers or dealers a nitrogenous fertilizer material for which his maximum price, determined as herein provided, has not been filed under (1) above, or when his maximum price for a nitrogenous fertilizer material is changed under the provisions of this regulation, he shall file with the Office of Price Administration in Washington, D. C., a price schedule showing such maximum price and a statement showing the calculations by which the maximum price was determined.

(3) Every fertilizer manufacturer selling nitrogenous fertilizer material covered by this regulation through agents to consumers, or to dealers, shall furnish each of his agents or dealers to whom he issues, or quotes, prices of such materials a copy of this regulation. Copies of this regulation for such distribution will be furnished sellers upon request addressed to Office of Price Administration, Washington, D. C.

(4) Each agent and dealer shall post at his place of business a list of his maximum prices to consumers.

(5) Each fertilizer manufacturer selling direct to consumers shall post at his office, plant and warehouse his maximum prices to consumers in effect for the area served by each such plant, office, or warehouse.

(c) Persons subject to this regulation shall submit such other information to the Office of Price Administration as it may, from time to time, require, in order to effectuate the purposes of the Emergency Price Control Act of 1942, as amended.

§ 1367.25 *Enforcement and licensing.* (a) Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, suits for treble damages, and proceedings for revocation of licenses provided for by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250.

(b) Persons who have evidence of any violation of this regulation or of any other regulation or order issued by the Office of Price Administration are urged to communicate with the nearest district, State, or regional office of the Office of Price Administration or its principal office in Washington, D. C.

(c) The registration and licensing provisions of §§ 1499.15 and 1499.16 of the General Maximum Price Regulation[3] are applicable to every person selling at wholesale or retail any nitrogenous fertilizer material covered by this regulation.

§ 1367.26 *Petitions for amendment*—(a) *Amendments.* Persons seeking any modification of this regulation or an adjustment or exception not provided for herein may file petitions for amendment in accordance with the provisions of Revised Procedural Regulation No. 1,[4] issued by the Office of Price Administration.

(b) *Adjustable pricing.* Any person may offer or agree to adjust or fix prices to or at prices not in excess of the maximum prices in effect at the time of delivery. Where a petition for amendment requires extended consideration, the Price Administrator may, upon application, grant permission to agree to adjust prices upon deliveries made during the pendency of the petition in accordance with the disposition of the petition.

§ 1367.27 *Relation to other regulations.* (a) The maximum prices for sales of nitrogenous fertilizer materials established by this regulation are not subject to the General Maximum Price Regulation, nor to Revised Maximum Price Regulation 73 as amended.[5]

(b) The maximum prices for export sales of nitrogenous fertilizer materials are governed by the Revised Maximum Export Price Regulation.[6]

§ 1367.28 *Definitions.* (a) When used in this regulation the term:

(1) "Person" includes an individual, corporation, partnership, association, farmers' or consumers' cooperative or other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(2) "Producer" means a person who manufactures or processes nitrogenous fertilizer material.

(3) "Importer" means a person who imports nitrogenous fertilizer material from a foreign country for resale to fertilizer manufacturers.

(4) "Jobber" means a person who is engaged in the business of purchasing nitrogenous fertilizer material from a producer for resale to fertilizer manufacturers.

(5) "Fertilizer manufacturer" means a person who produces, mixes, or processes mixed fertilizer or who markets mixed fertilizer for his own account and under his own brand or trade name, and who purchases nitrogenous fertilizer material from a producer, importer or jobber for resale to consumers or to dealers; and also includes any person who, prior to the effective date of this regulation, had been allocated nitrogenous fertilizer material by War Production Board for resale to consumers or to dealers.

(6) "Dealer" means a person other than a fertilizer manufacturer as defined herein who purchases nitrogenous fertilizer material for resale to consumers.

(7) "Agent" means a person who acts on behalf of another person in making sales of nitrogenous fertilizer material to consumers.

(8) "Consumer" means a person purchasing nitrogenous fertilizer material for use in aiding the growth of crops or plants and not for resale.

(9) "Production point" means the basing point, port, or actual place of production which may be used by the producer, importer, or jobber in determining his maximum price of nitrogenous fertilizer material.

(10) "Buyer's delivery point" means the destination to which nitrogenous fertilizer material is shipped direct from production point at request of buyer or agent.

(11) "Selling at wholesale" means a sale of nitrogenous fertilizer material to a dealer.

(12) "Selling at retail" means a sale of nitrogenous fertilizer material to a consumer.

(13) "Spring season" means the fertilizer selling season from December 1 of any calendar year to and including June 30, of the next succeeding calendar year.

(14) "Fall season" means the fertilizer selling season from July 1 to November 30, inclusive, of any calendar year.

(15) "Margin" means the amount of markup which may be added by a fertilizer manufacturer to the fertilizer manufacturer's cost, and by a dealer to the dealer's cost.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

§ 1367.29 *Appendix A: Maximum prices of nitrogenous fertilizer materials.* (a) For deliveries in the District of Columbia, the Territory of Puerto Rico, and in all States except Washington, Oregon, California, Montana, Wyoming, Idaho, Nevada, Utah, Colorado, and Arizona.

(1) *Sales by domestic fertilizer manufacturers to consumers.* The maximum price for a cash sale of nitrogenous fertilizer material by a fertilizer manu-

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[3] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5192, 5276, 5365, 5445, 5484, 5565, 5775, 5783, 5784, 6007, 6058, 6081, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 8942, 9004, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317, 2029, 2110, 2346.

[4] 7 F.R. 8961.

[5] 7 F.R. 2475, 2637, 8591, 8948; 8 F.R. 877.

[6] 7 F.R. 5059, 7242, 8829, 9000, 10530.

facturer, direct or through agents, to a consumer shall be:

(i) The maximum price the producer or jobber may charge the fertilizer manufacturer for the domestically produced nitrogenous fertilizer material being sold or the price paid by the fertilizer manufacturer to the importer or foreign producer for the imported nitrogenous fertilizer material being sold, plus

(ii) An amount equal to the fertilizer manufacturer's additional expenditure, if any, for transportation from production point direct to the fertilizer manufacturer's plant or warehouse or direct to the buyer's delivery point, plus

(iii) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, the fertilizer manufacturer's plant, plus

(iv) $1.50 per ton for grinding castor cake or unground fish scrap if such grinding is done by the fertilizer manufacturer, plus

(v) The actual cost of bags used and $1.00 per ton when such nitrogenous fertilizer material is received in bulk by the fertilizer manufacturer and resold in bags, plus

(vi) An amount equal to the cost of State tax tags, if any, and the attaching thereof, or State tonnage or inspection tax, but not license costs or registration fees, plus

(vii) A maximum margin of: $4.00 per ton if such cost (subdivisions (i) through (vi) is less than $40.00 per ton; $5.00 per ton if such cost is $40.00 but less than $50.00 per ton; $6.00 per ton if such cost is $50.00 but less than $60.00 per ton; $7.00 per ton if such cost is $60.00 but less than $70.00 per ton; $8.00 per ton if such cost is $70.00 or more per ton; plus

(viii) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, a warehouse operated by the fertilizer manufacturer or his agent, plus

(ix) An amount equal to the actual transportation expense incurred in making delivery from the plant or warehouse of the fertilizer manufacturer or from the buyer's delivery point, to the consumer.

(2) *Sales by domestic fertilizer manufacturers to dealers.* The maximum price for a cash sale of nitrogenous fertilizer material by a fertilizer manufacturer to a dealer shall be:

(i) The fertilizer manufacturer's cost as set forth in subdivisions (i) to (vi), inclusive, of paragraph (a) (1) above, plus

(ii) A maximum margin of: $2.00 per ton if such cost is less than $40.00 per ton; $2.50 per ton if such cost is $40.00 but less than $50.00 per ton; $3.00 per ton if such cost is $50.00 but less than $60.00 per ton; $3.50 per ton if such cost is $60.00 but less than $70.00 per ton; $4.00 per ton if such cost is $70.00 or more per ton, plus

(iii) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, a warehouse operated by the fertilizer manufacturer, plus

(iv) An amount equal to the actual transportation expense incurred in making delivery from the plant or warehouse of the fertilizer manufacturer to the dealer.

(3) *Sales by domestic dealers to consumers.* The maximum price for a cash sale of nitrogenous fertilizer material by a dealer to a consumer shall be:

(i) The maximum cash price the fertilizer manufacturer or the producer may charge the dealer for the nitrogenous fertilizer material being sold, plus

(ii) An amount equal to the dealer's actual additional expenditure, if any, for transportation of the nitrogenous fertilizer material to the dealer's rail or boat destination or warehouse, plus

(iii) A maximum margin of: $2.00 per ton if the dealer's cost (subdivisions (i) and (ii)) is less than $42.00 per ton; $2.50 per ton if such cost is $42.00 but less than $52.50 per ton; $3.00 per ton if such cost is $52.50 but less than $63.00 per ton; $3.50 per ton if such cost is $63.00 but less than $73.50 per ton; $4.00 per ton if such cost is $73.50 or more per ton, plus

(iv) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, a warehouse operated by the dealer, plus

(v) An amount equal to the actual transportation expense incurred by the dealer in making delivery to the consumer.

(b) *For deliveries in Washington, Oregon, California, Montana, Wyoming, Idaho, Nevada, Utah, Colorado, and Arizona*—(1) *Sales by domestic fertilizer manufacturers to consumers.* The maximum price for a cash sale of nitrogenous fertilizer material by a fertilizer manufacturer, direct or through agents, to a consumer shall be:

(i) The maximum price the producer or jobber may charge the fertilizer manufacturer for the domestically produced nitrogenous fertilizer material being sold, or the price paid by the fertilizer manufacturer to the importer or foreign producer for the imported nitrogenous fertilizer material being sold, plus

(ii) An amount equal to the fertilizer manufacturer's additional expenditure, if any, for transportation from production point direct to the fertilizer manufacturer's plant or warehouse or direct to the buyer's delivery point, plus

(iii) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, the fertilizer manufacturer's plant, plus

(iv) $1.50 per ton for grinding castor cake or unground fish scrap if such grinding is done by the fertilizer manufacturer, plus

(v) The actual cost of bags used and $1.00 per ton when such nitrogenous fertilizer material is received in bulk by the fertilizer manufacturer and resold in bags, plus

(vi) An amount equal to the cost of State tax tags, if any, and the attaching thereof, or State tonnage or inspection tax, but not license costs or registration fees, plus

(vii) A maximum margin of: $7.00 per ton if such cost (subdivisions (i) through (vi)) is less than $50.00 per ton; $8.00 per ton if such cost is $50.00 but less than $60.00 per ton; $9.00 per ton if such cost is $60.00 but less than $70.00 per ton; $10.00 per ton if such cost is $70.00 but less than $80.00 per ton; $11.00 per ton if such cost is $80.00 or more per ton, plus

(viii) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from a warehouse operated by the fertilizer manufacturer or his agent, plus

(ix) An amount equal to the actual transportation expense incurred in making delivery from the plant or warehouse of the fertilizer manufacturer, or from the buyer's delivery point, to the consumer.

(2) *Sales by domestic fertilizer manufacturers to dealers.* The maximum price for a cash sale of nitrogenous fertilizer material by a fertilizer manufacturer to a dealer shall be:

(i) The fertilizer manufacturer's cost as set forth in subdivisions (i) to (vi), inclusive, of paragraph (b) (1) above, plus

(ii) A maximum margin of: $4.50 per ton if such cost is less than $50.00 per ton; $5.00 per ton if such cost is $50.00 but less than $60.00 per ton; $5.50 per ton if such cost is $60.00 but less than $70.00 per ton; $6.00 per ton if such cost is $70.00 but less than $80.00 per ton; $6.50 per ton if such cost is $80.00 or more per ton, plus

(iii) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, a warehouse operated by the fertilizer manufacturer, plus

(iv) An amount equal to the actual transportation expense incurred in making delivery from the plant or warehouse of the fertilizer manufacturer to the dealer.

(3) *Sales by domestic dealers to consumers.* The maximum price for a cash sale of nitrogenous fertilizer material by a dealer to a consumer shall be:

(i) The maximum cash price the fertilizer manufacturer or the producer may charge the dealer for the nitrogenous fertilizer material being sold, plus

(ii) An amount equal to the dealer's actual additional expenditure, if any, for transportation of the nitrogenous fertilizer material to the dealer's rail or boat destination or warehouse, plus

(iii) A maximum margin of: $2.50 per ton if the dealer's cost (subdivisions (i) and (ii)) is less than $54.50 per ton; $3.00 per ton if such cost is $54.50 but less than $65.00 per ton; $3.50 per ton if such cost is $65.00 but less than $75.50 per ton; $4.00 per ton if such cost is $75.50 but less than $86.00 per ton; $4.50 per ton if such cost is $86.00 or more per ton, plus

(iv) $0.50 per ton if the nitrogenous fertilizer material is stored in, and delivered from, a warehouse operated by the dealer, plus

(v) An amount equal to the actual transportation expense incurred by the dealer in making delivery to the consumer.

(c) *Federal transportation tax.* (1) Whenever provision is made in this regulation for the addition of transportation or freight charges in determining maximum prices hereunder and whenever any other reference is herein made to such charges, the tax imposed by section 620 of the Revenue Act of 1942 (Pub. Law 753—77th Cong., approved October 21, 1942) shall be deemed to be a part of and shall be included in said charges with like effect as if it were a like increase in the rate or amount charged by the carrier for the transportation in question.

(2) The provisions of Supplementary Order No. 31[1] issued by the Office of Price Administration on November 26, 1942 (Document Number 7623) shall have no application to this regulation.

(d) *Credit sales.* In the case of credit sales, credit terms shall not be more onerous on Spring season sales than those in effect and applicable to such dealer or consumer for the period from February 16, 1942, to February 20, 1942, inclusive, and for Fall season sales, credit terms shall not be more onerous than those in effect and applicable to such dealer or consumer for the period from October 1, 1941, to October 15, 1941, inclusive.

(e) *Less than maximum prices.* Lower prices than those set forth in § 1367.29 may be charged, demanded, offered, paid or received.

This regulation shall become effective March 15, 1943, except within the Territory of Puerto Rico where it shall become effective April 25, 1943.

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3801; Filed, March 10, 1943; 2:59 p. m.]

[1] 7 F.R. 9894; 8 F.R. 1312.

PART 1367—FERTILIZERS

[MPR 240,[1] Amendment 1]

PHOSPHATE ROCK

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The title of the regulation is amended to read as set forth above, and § 1367.115 is added to read as set forth below:

§ 1367.115 *Appendix C: Maximum prices for Florida hard phosphate rock.* The miner may charge any person for Florida hard phosphate rock upon the terms and conditions, and for the grades and descriptions, the prices, all as set forth in the following schedule:

Unground phosphate rock:

Size: Run of mine in carload lots—crushed, washed, dried and unground.

Price: Basis gross ton (2240 lbs.) F. O. B. cars or F. A. S. vessel at Fernandina, Florida.

Quality: Bone phosphate of lime (B. P. L. on a dry basis, and not more than 4% combined oxide of iron and alumina (when determined separately on a dry basis) and not more than 3% moisture.

Grades:

72/70% B. P. L.—$7.10 basis 72% B. P. L., 15¢ per unit rise to 74% maximum and 30¢ per unit fall to 68% minimum, fractions in proportion.

75/74% B. P. L.—$7.85 basis 75% B. P. L., 20¢ per unit rise to 76% maximum and 40¢ per unit fall to 74% minimum, fractions in proportion.

77/76% B. P. L.—$8.60 basis 77% B. P. L., 25¢ per unit rise to 81% maximum and 50¢ per unit fall to 76% minimum, fractions in proportion.

Wet rock: Deduct $2.70 per gross ton from the grade price for wet rock not dried F. O. B. cars at the mines.

Car door boards: Add $2.00 per car for boarding up car doors.

This amendment shall become effective March 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3802; Filed, March 10, 1943; 2:59 p. m.]

PART 1382—HARDWOOD LUMBER

[MPR 146,[2] Amendment 11]

APPALACHIAN HARDWOOD LUMBER

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 1382.3 and paragraph (f) of § 1382.11 are amended to read as set forth below:

§ 1382.3 *Adjustable pricing.* Any person may offer or agree to adjust or fix prices to or at prices not in excess of the maximum prices in effect at the time of delivery. In an appropriate situation, where a petition for amendment requires extended consideration, the Price Administrator may, upon application, grant permission to agree to adjust prices upon deliveries made during the pendency of the petition in accordance with the disposition of the petition.

§ 1382.11 *Appendix A: Maximum prices for Appalachian hardwood lumber in standard or near standard grades.* * * *

(f) A delivered price in excess of the maximum f. o. b. mill prices set forth in paragraphs (b) and (c) hereof, may be charged, consisting of such maximum prices, plus the transportation charges set forth below: *Provided,* That the invoice contains the point of origin of the shipment, the destination, the applicable rail or truck rate, or if shipment is by private truck, the amount added for transportation, and the words "direct-mill shipment".

(1) *Common or contract carrier.* When shipment is by common or contract carrier, the following rules govern:

(i) When estimated weights are used, the rate times the estimated weight is the proper transportation charge. Estimated weights may be used only if they have been filed with the Office of Price Administration, Washington, D. C. The weights must be the weights used by the seller during the period October 1 to October 15, 1941. The estimated weight must be the weight for the exact kind of lumber actually shipped; for example, green weights may not be used if dry lumber is shipped. The transportation charge may be evened out to the nearest quarter-dollar per M.

(ii) When estimated weights are not used, the amount added for transportation must not be more than the amount actually paid to the common or contract carrier, evened out to the nearest quarter-dollar per M.

(2) *Private truck.* When shipment is by truck owned or controlled by the seller, the amount added for transportation may not be more than the actual cost to the seller of delivery by truck; and, no matter what the actual cost is, the amount added may not be more than the railroad charge at the carload rate for the most similar haul. However, if this railroad charge is less than $1.50, and if the actual cost of delivery is more than $1.50, a transportation charge of $1.50 may be made.

(3) *Trucking to railhead.* When a truck haul precedes rail shipment, as when a mill located away from a railhead hauls lumber by truck to the railhead, no addition may be made for the truck haul. However, in the following three cases a mill may apply for special permission to make an addition;

(i) Where the mill was located away from rail connections because it specialized in water-borne lumber, and where shortage of shipping has forced it to operate by rail;

(ii) Where the mill prior to the shortage of tires and gasoline shipped lumber to the particular final destination principally by all-truck haul, and now wishes to convert to truck-and-rail haul to save tires and gasoline;

(iii) Where a mill's rail connection has been abandoned since September 5, 1941.

The application should be made by letter to the Lumber Branch of the Office of Price Administration, Washington, D. C. The addition may not be made on quotations or sales until permission has been received.

(4) *Truck delivery after rail haul.* When truck delivery follows a rail haul, the actual cost of truck delivery may be added.

(5) *All-truck haul.* When an all-truck haul ends in delivery to the job site, no special addition may be made above the charges provided in subparagraphs (1) and (2) of this paragraph, since in this case delivery to the job site involves no extra expense.

This amendment shall become effective March 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3804; Filed, March 10, 1943; 3:00 p. m.]

PART 1382—HARDWOOD LUMBER

[MPR 155,[1] Amendment 4]

CENTRAL HARDWOOD LUMBER

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 1382.53 and paragraph (f) of § 1382.61 are amended to read as set forth below:

§ 1382.53 *Adjustable pricing.* Any person may offer or agree to adjust or fix prices to or at prices not in excess of the maximum prices in effect at the time of delivery. In an appropriate situation, where a petition for amendment requires extended consideration, the Price Administrator may, upon application, grant permission to agree to adjust prices upon deliveries made during the pendency of the petition in accordance with the disposition of the petition.

§ 1382.61 *Appendix A: Maximum prices for North Central hardwood lumber in standard or near standard grades.* * * *

(f) A delivered price in excess of the maximum f. o. b. mill prices set forth in paragraphs (b) and (c) hereof, may be charged, consisting of such maximum prices, plus the transportation charges set forth below: *Provided,* That the invoice contains the point of origin of the shipment, the destination, the applicable rail or truck rate, or if shipment is by private truck, the amount added for transportation, and the words "Direct-mill Shipment".

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 8283, 8948.

[2] 7 F.R. 3776, 4179, 4852, 5520, 6053, 6998, 7600, 7747, 8198, 8350, 8384, 8948.

[1] 7 F. R. 4109, 7202, 7780, 8385, 8948.

(1) *Common or contract carrier.* When shipment is by common or contract carrier, the following rules govern:

(i) When estimated weights are used, the rate times the estimated weight is the proper transportation charge. Estimated weights may be used only if they have been filed with the Office of Price Administration, Washington, D. C. The weights must be the weights used by the seller during the period October 1 to October 15, 1941. The estimated weight must be the weight for the exact kind of lumber actually shipped; for example, green weights may not be used if dry lumber is shipped. The transportation charge may be evened out to the nearest quarter-dollar per M.

(ii) When estimated weights are not used, the amount added for transportation must not be more than the amount actually paid to the common or contract carrier, evened out to the nearest quarter-dollar per M.

(2) *Private truck.* When shipment is by truck owned or controlled by the seller, the amount added for transportation may not be more than the actual cost to the seller of delivery by truck; and, no matter what the actual cost is, the amount added may not be more than the railroad charge at the carload rate for the most similar haul. However, if this railroad charge is less than $1.50, and if the actual cost of delivery is more than $1.50, a transportation charge of $1.50 may be made.

(3) *Trucking to railhead.* When a truck haul precedes a rail shipment, as when a mill located away from a railhead hauls lumber by truck to the railhead, no addition may be made for the truck haul. However, in the following three cases a mill may apply for special permission to make an addition:

(i) Where the mill was located away from rail connections because it specialized in water-borne lumber, and where shortage of shipping has forced it to operate by rail;

(ii) Where the mill prior to the shortage of tires and gasoline shipped lumber to the particular final destination principally by all-truck haul, and now wishes to convert to truck-and-rail haul to save tires and gasoline;

(iii) Where a mill's rail connection has been abandoned since September 5, 1941.

The application should be made by letter to the Lumber Branch of the Office of Price Administration, Washington, D. C. The addition may not be made on quotations or sales until permission has been received.

(4) *Truck delivery after rail haul.* When truck delivery follows a rail haul, the actual cost of truck delivery may be added.

(5) *All-truck haul.* When an all-truck haul ends in delivery to the job site, no special addition may be made above the charges provided in subparagraphs (1) and (2) of this paragraph, since in this case delivery to the job site involves no extra expense.

This amendment shall become effective March 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3803; Filed, March 10, 1943; 2:59 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Supp. Amendment 9A to Maximum Rent Regulations]

HOTELS AND ROOMING HOUSES

Maximum Rent Regulations Nos. 21A, 22A, 23A, 29A, 30A, 31A, 32A, 34A, 36A, 38A, 40A, 42A, 44A, 46A, 48A, 50A, 54A, 56A, 58A, 59A, 61A, and 63A are amended in the following respects:

1. Subparagraph (4) is added to paragraph (b) of §§ 1388.1502, 1388.1552, 1388.1602, 1388.1852, 1388.1902, 1388.1952, 1388.2002, 1388.3002, 1388.4002, 1388.5002, 1388.6002, 1388.7002, 1388.8002, 1388.9002, 1388.82, 1388.132, 1388.332, 1388.432, 1388.632, 1388.732, 1388.832, and 1388.932 of the said Maximum Rent Regulations, respectively, to read as follows:

(4) Where, since October 1, 1942, a room, cabin or similar accommodations in a tourist camp, cabin camp, auto court or similar establishment has been or is hereafter rented to the same tenant for a continuous period of 60 days or longer on a daily or weekly basis, the landlord shall offer such room, cabin or other accommodations for rent for a monthly term of occupancy, regardless of the provisions of subparagraph (2) of this paragraph. The room, cabin or other accommodations shall be offered for rent on a monthly basis for each number of occupants for which it is offered by the landlord for any other term of occupancy. Any tenant of such room, cabin or other accommodations on a daily or weekly basis shall on request be permitted by the landlord to change to a monthly term of occupancy.

Notwithstanding the provisions of § ------[1] (c) of this maximum rent regulation, if no maximum rent is established for such room, cabin or other accommodations for a monthly term of occupancy or for a particular number of occupants for such term, the Administrator on his own initiative may enter an order fixing the maximum rent for that term and number of occupants and specifying the minimum services. This maximum rent shall be fixed on the basis of the rent generally prevailing in the defense-rental area for comparable housing accommodations on ------.[2]

2. In the first unnumbered paragraph and paragraphs (a) (4), (a) (5), (c) (1), and (d) of § § 1388.1505, 1388.1555, 1388.1605, 1388.1855, 1388.1905, 1388.1955, 1388.2005, 1388.3005, 1388.4005, 1388.5005, 1388.6005, 1388.7005, 1388.8005, 1388.9005, 1388.85, 1388.135, 1388.335, 1388.435, 1388.635, 1388.735, 1388.835, and 1388.935 of the said maximum rent regulations, respectively, the words "housing accommodations" are substituted for the word "rooms" wherever the word "rooms" appears.

3. Paragraph (d) (2) of §§ 1388.1506, 1388.1556, 1388.1606, 1388.1856, 1388.1906, 1388.1956, 1388.2006, 1388.3006, 1388.4006, 1388.5006, 1388.6006, 1388.7006, 1388.8006, 1388.9006, 1388.86, 1388.136, 1388.336, 1388.436, 1388.636, 1388.736, 1388.836, and 1388.936 of the said maximum rent regulations, respectively, is amended to read as follows:

(2) A tenant occupying a room within a hotel on a daily or weekly basis; or a tenant occupying on a daily basis a room within a rooming house which has heretofore usually been rented on a daily basis: *Provided,* That the provisions of this section do apply to a tenant on a daily or weekly basis who has requested a weekly or monthly term of occupancy pursuant to § ------[3] (b) (3) or (4).

This Supplementary Amendment No. 9A shall become effective March 10, 1943.

(Pub. Law 421, 77th Cong.)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3805; Filed, March 10, 1943; 2:58 p. m.]

PART 1400—TEXTILE FABRICS: COTTON, WOOL, SILK SYNTHETICS AND ADMIXTURES

[MPR 127,[4] as Amended March 10, 1943]

FINISHED PIECE GOODS

In § 1400.78 subparagraphs (41) and (42) of paragraph (c) are amended; in § 1400.80 paragraph (c) is revoked; in

[1] The applicable section number is to be inserted for each maximum rent regulation. The respective section number to be inserted for each maximum rent regulation is as follows:

No. 21A, 1388.1504; No. 22A, 1388.1554; No. 23A, 1388.1604; No. 29A, 1388.1854; No. 30A, 1388.1904; No. 31A, 1388,1954; No. 32A, 1388.2004; No. 34A, 1388.3004; No. 36A, 1388.4004; No. 38A, 1388.5004; No. 40A, 1388.6004; No. 42A, 1388.7004; No. 44A, 1388.8004; No. 46A, 1388.9004; No. 48A, 1388.84; No. 50A, 1388.134; No. 54A, 1388.334; No. 56A, 1388.434; No. 58A, 1388.634; No. 59A, 1388.734; No. 61A, 1388.834; No. 63A, 1388.934.

[2] The applicable date is to be inserted for each maximum rent regulation. The respective date to be inserted in each maximum rent regulation is as follows:

Nos. 21A, 29A, 40A, 42A, January 1, 1941; Nos. 22A, 30A, 34A, April 1, 1941; Nos. 23A, 31A, 38A, 59A, July 1, 1941; Nos. 48A, 56A, October 1, 1941; Nos. 32A, 36A, 44A, 46A, 50A, 54A, 58A, 61A, 63A, March 1, 1942.

[3] The applicable section number is to be inserted for each maximum rent regulation. The respective section number to be inserted for each maximum rent regulation is as follows:

No. 21A, 1388.1502; No. 22A, 1388.1552; No. 23A, 1388.1602; No. 29A, 1388.1852; No. 30A, 1388.1902; No. 31A, 1388.1952; No. 32A, 1388.2002; No. 34A, 1388.3002; No. 36A, 1388.4002; No. 38A, 1388.5002; No. 40A, 1388.6002; No. 42A, 1388.7002; No. 44A, 1388.8002; No. 46A, 1388.9002; No. 48A, 1388.82; No. 50A, 1388.132; No. 54A, 1388.332; No. 56A, 1388.432; No. 58A, 1388.632; No. 59A, 1388.732; No. 61A, 1388.832; No. 63A, 1388.932.

[4] 7 F.R. 3119.

§ 1400.81 subparagraph (16) of paragraph (a) is amended; in § 1400.82 subparagraph (3) of paragraph (e) is revoked, subdivision (v) of subparagraph (2) of paragraph (i) is amended by adding one sentence, subparagraph (5) of paragraph (i) is added, Table IX of paragraph (q) is amended, subparagraph (1) and the footnote to Table X of paragraph (r) are amended and new subparagraphs (2), (3), and (4) of paragraph (r) are added, paragraph (s) is amended, and new paragraphs (t), (u) and (v) are added by Amendment 10 so that Maximum Price Regulation No. 127 as amended by Amendment 10 shall read as follows:

In the judgment of the Price Administrator, the prices of finished piece goods have risen to an extent and in a manner inconsistent with the purposes of the Emergency Price Control Act of 1942. The Price Administrator has ascertained and given due consideration to the prices of finished piece goods prevailing between October 1 and October 15, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

In the judgment of the Price Administrator the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of said Act. A statement of the considerations [2] involved in the issuance of this regulation has been prepared, issued simultaneously herewith and has been filed with the Division of the Federal Register.

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, and in accordance with Procedural Regulation No. 1,[3] issued by the Office of Price Administration, Maximum Price Regulation No. 127 is hereby issued.

Sec.

1400.71 Maximum prices for finished piece goods.
1400.72 Less than maximum prices.
1400.73 Conditional agreements.
1400.74 Evasion.
1400.75 Records.
1400.76 Reports.
1400.77 Details required in contract of sale or invoice.
1400.78 Exempt sales.
1400.78a War procurement.
1400.79 Enforcement.
1400.80 Petitions for amendment or adjustment.
1400.81 Definitions.
1400.82 Appendix A: Maximum prices for finished piece goods.
1400.83 Temporary Maximum Price Regulation No. 10—Finished Piece Goods Made of Cotton, Rayon and Mixtures Thereof.
1400.84 Effective date.
1400.85 Effective dates of amendments.

AUTHORITY: §§ 1400.71 to 1400.85, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

[2] Statements of considerations also are issued simultaneously with the issuance of amendments. Requests for copies should be addressed to the Office of Price Administration.

[3] Revised: 7 F.R. 8961.

§ 1400.71 *Maximum prices for finished piece goods.* On and after May 4, 1942, regardless of any contract, agreement, lease, or other obligation, no person shall sell or deliver finished piece goods, and no person shall buy or receive finished piece goods in the course of trade or business, at prices higher than the maximum prices set forth in Appendix A hereof, incorporated herein as § 1400.82; and no person shall agree, offer, solicit or attempt to do any of the foregoing. The provisions of this section shall not be applicable to sales or deliveries of finished piece goods to a purchaser if prior to May 4, 1942 such finished piece goods had been received by a carrier, other than a carrier owned or controlled by the seller, for shipment to such purchaser, or if within the terms of the Worth Street Rules title to such finished piece goods had passed to the purchaser prior to May 4, 1942.

[NOTE: Supplementary Order No. 7 (7 F.R. 5176) provides that the prohibition contained in any price regulation against buying or receiving any commodity or service at a price higher than the maximum price permitted by such regulation shall not apply to any war procurement agency, or government whose defense is vital to the defense of the United States.]

§ 1400.72 *Less than maximum prices.* Lower prices than those set forth in Appendix A (§ 1400.82) may be charged, demanded, paid or offered.

§ 1400.73 *Conditional agreements.* No seller of finished piece goods shall enter into an agreement permitting the adjustment of the prices to prices which may be higher than the maximum prices provided by § 1400.82, in the event that this Maximum Price Regulation No. 127 is amended or is determined by a court to be invalid or upon any other contingency: *Provided,* That if a petition for amendment (or for adjustment or for exception under § 1400.82 (i) (3)) has been duly filed, and such petition requires extensive consideration, and the Administrator determines that an exception would be in the public interest pending such consideration, the Administrator may grant an exception from the provisions of this section permitting the making of contracts adjustable upon the granting of the petition for amendment (or for adjustment or exception, as the case may be). Requests for such an exception may be included in the aforesaid petition for amendment (or for adjustment or for exception under § 1400.82 (i) (3)).

§ 1400.74 *Evasion.* The price limitations set forth in this Maximum Price Regulation No. 127 shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, agreement, sale, delivery, purchase or receipt of or relating to finished piece goods, alone or in conjunction with any other commodity or by way of commission, service, transportation, or other charge, or discount, premium or other privilege, or by tying-agreement or other trade understanding, or otherwise.

§ 1400.75 *Records.* (a) On and after May 4, 1942, every person making a purchase, sale or delivery of finished piece goods in the course of trade or business, or otherwise dealing in finished piece goods shall keep for inspection by the Office of Price Administration, for a period of not less than two years, complete and accurate records of each such purchase, sale, or delivery, showing the date thereof, the terms of sale, the name and address of the buyer or seller, the price paid or received, and the quantity of each type, quality and finish of finished piece goods purchased or sold, and including (in the case of the seller) a record of all items necessary to verify the computation of the maximum price for the finished piece goods.

(b) Persons required to submit reports under § 1400.76 shall, in addition to the records required above, keep for inspection by the Office of Price Administration, for a period of not less than two years, complete and accurate records of all items necessary to verify such reports.

§ 1400.76 *Reports.* (a) Persons subject to this Maximum Price Regulation No. 127 shall submit such reports as the Office of Price Administration may from time to time require.

§ 1400.77 *Details required in contract of sale or invoice.* (a) Every seller of finished piece goods shall, with respect to each sale thereof, deliver to the purchaser and the purchaser shall retain as a part of his records, either a contract of sale or an invoice which shall contain, in addition to the terms thereof, a full description of each type, quality and finish of finished piece goods sold, or a style number or symbol sufficient to identify in the seller's records maintained pursuant to § 1400.75 hereof, the full details of the construction so delivered.

(b) If the seller is the converter of the fabric sold, the contract of sale or invoice shall contain a statement of the division factor (as specified in § 1400.82 (g)) used in determining the maximum price.

(c) If the seller is a wholesaler, jobber or converter-jobber selling jobbed goods, the contract of sale or invoice shall contain:

(1) If the purchaser is a person other than a wholesaler, jobber, converter-jobber or export merchant, a statement of the division factor used in computing the selling price or a statement that the net selling price does not exceed the maximum price permitted under Maximum Price Regulation No. 127;

(2) If the purchaser is a wholesaler, jobber, converter-jobber, or export merchant, a statement showing:

(i) The selling price; and

(ii) The exact maximum price which the seller would be entitled to charge Class I and Class II purchasers.

[§ 1400.77 as amended by Amendment 2, 7 F.R. 4180]

§ 1400.78 *Exempt sales.* The provisions of this Maximum Price Regulation No. 127 shall not apply to the following:

(a) Sales at retail.

(b) Sales of finished piece goods by decorative goods jobbers.

(c) Sales or purchases of:

(1) Any fabric covered by Revised Price Schedule No. 35 [4]—Carded Grey and Colored Yarn Cotton Goods.

(2) Any fabric covered by Revised Price Schedule No. 39 [5]—Upholstery Furniture Fabrics.

(3) Woven tickings heavier than 4.95 yards per lb. and not in weaves requiring Jacquard looms.

(4) Any fabric covered by Revised Price Schedule No. 89 [6]—Bed Linens.

(5) Abrasive cloth.

(6) Adhesive hollands.

(7) Artificial leather or other pyroxylin coated fabrics.

(8) Awning cloths.

(9) Belting.

(10) Blue-print cloth.

(11) Bookbinding hollands.

(12) Bunting for blankets.

(13) Cheese cloth.

(14) Corduroy.

(15) Cotton pile fabrics.

(16) Embroidery.

(17) Filter cloths.

(18) Flag cloths (yarn dyed).

(19) Insulation cloth.

(20) Knit goods.

(21) Nottingham lace.

(22) Oil cloth.

(23) Outing flannels.

(24) Separator cloth.

(25) Surgical gauze.

(26) Tag (label) cloth.

(27) Towels and toweling.

(28) Transparent cloth (envelope and tracing cloth).

(29) Waterproof ducks (tarpaulins, truck covers).

(30) Window shade hollands.

(31) Finished piece goods imported from a foreign country.

(32) Any fabric covered by Maximum Price Regulation No. 118 [7]—Cotton Products.

[Paragraph (32) as amended by Amendment 3, 7 F.R. 4454]

(33) Yarn-dyed fabrics predominantly used for upholstery, furniture and automobile slip covers, or draperies.

(34) Pound goods.

(35) Remnants less than 10 yards in length and individual dress length remnants less than 10 yards in length sold by the piece or by the bundle.

(36) Rubber coated fabrics.

[Paragraphs (33) through (36) added by Amendment 2, 7 F.R. 4180]

(37) Fabrics coated with a cellulose ester, cellulose ether, synthetic resin or oxidizable oil, for waterproofing or other similar purpose.

[Paragraph (37) added by Amendment 2, 7 F.R. 4180 and amended by Amendment 7, 7 F.R. 5675]

(38) Velvets woven on a velvet or plush loom.

[Paragraph (38) added by Amendment 2, 7 F.R. 4180]

(39) Ecclesiastical fabrics

(40) Metallic fabrics

[Paragraphs (39) and (40) added by Amendment 6, 7 F.R. 5364]

(41) Loom finished fabrics: *Provided,* That any person before selling such fabrics shall, unless he has already done so, file his name and address with the Office of Price Administration, Washington, D. C.

[Paragraph (41) added by Amendment 6, 7 F.R. 5364 and amended by Amendment 10, March 10, 1943]

(42) Woven or printed decorative pattern fabrics composed in an amount of 75% or more by weight of synthetic yarn, and sold exclusively for use by necktie manufacturers: *Provided,* That any person before selling such fabrics shall, unless he has already done so, file his name and address with the Office of Price Administration, Washington, D. C., certifying that only such fabrics as are sold exclusively for use by necktie manufacturers will be sold hereunder.

[Paragraph (42) added by Amendment 6, 7 F. R. 5364 and amended by Amendment 10, March 10, 1943]

(43) Typewriter ribbon cloth finished from imported plain woven goods, 36 to 44 inches in grey width, made of combed or super-combed Egyptian or Sea Island cotton yarn.

(44) Finished fabrics which:

(i) Are 54 inches or more in finished width;

(ii) Weigh in excess of 12½ oz. per linear yard of 56 inch width;

(iii) Contain 8 per cent or more wool by weight; and

(iv) Are finished on the woolen or worsted system.

[Paragraphs (43) and (44) added by Amendment 7, 7 F.R. 5675]

(45) Fabrics coated or impregnated with paraffin wax or similar substance and used as a substitute for glass, when sold by wholesalers or jobbers.

[Paragraph (45) added by Amendment 9, 7 F.R. 9823]

(d) Sales of finished piece goods by furrier suppliers: *Provided,* That any person exempted by this paragraph (d) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C., certifying that he falls within the definition of furrier supplier as set forth in § 1400.81 (a) (15) of this Maximum Price Regulation No. 127.

(e) Sales of finished piece goods to custom shirtmakers by a custom shirtmaker's supplier: *Provided,* That any person exempted by this paragraph (e) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C.

(f) Sales of finished piece goods by a woman's shoe fabric supplier: *Provided,* That any person exempted by this paragraph (f) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C., certifying that he is a woman's shoe fabric supplier as defined in § 1400.81 (a) (11) of this Maximum Price Regulation No. 127.

(g) Sales of finished piece goods by a milliners' supply house: *Provided,* That any person exempted by this paragraph (g) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C.

(h) Sales of finished piece goods by a tailor trimming store: *Provided,* That any person exempted by this paragraph (h) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C.

(i) Sales of finished piece goods by a dressmakers' supply house: *Provided,* That any person exempted by this paragraph (i) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C.

[Paragraphs (d) through (i) added by Amendment 6, 7 F.R. 5364 and amended by Amendment 8, 7 F.R. 6653]

(j) Sales and deliveries of printed woven decorative fabrics as defined in Maximum Price Regulation No. 39 when such sales or deliveries are made by a person whose principal business with respect to such fabrics during the period between January 1, 1941 and March 31, 1942 was in fabrics selling at a price of 35 cents or more per yard: *Provided,* That any such person shall, on or before August 31, 1942 file his name and address with the Office of Price Administration, Washington, D. C.

(k) Sales of finished piece goods by an artificial flower manufacturers' supplier: *Provided,* That any person exempted by this paragraph (k) shall, on or before August 31, 1942, file his name and address with the Office of Price Administration, Washington, D. C., certifying that he is an artificial flower manufacturers' supplier as defined in §1400.81 (a) (20) of this Maximum Price Regulation No. 127.

[Paragraph (j) and (k) added by Amendment 7, 7 F.R. 5675 and amended by Amendment 8, 7 F.R. 6653]

§ 1400.78a *War procurement.* (a) Sales and deliveries to a war procurement agency of finished piece goods of the types and made to the specifications (in their present form or as hereafter amended) listed below shall be exempt from maximum prices, by whatsoever Regulation or Schedule established, until July 15, 1942. On and after July 15, 1942, but not prior thereto, such sales and deliveries shall be subject to Maximum Price Regulation No. 157.[8]

(1) P. Q. D. No. 33–A (8.2 combed uniform twill).

(2) 27 T 25 (bleached and shrunk twill).

(3) Marine Corps Specification November 22, 1937 (Shrunk khaki suiting).

(4) P. Q. D. No. 95 (6 oz. combed twill).

(5) P. Q. D. No. 1 (wind resistant cloth).

(6) 6–100B (lining twill).

(7) P. Q. D. No. 17–A (mosquito netting).

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[4] 8 F.R. 1963.

[5] 7 F.R. 1279, 1836, 2000, 2132, 5243, 5512, 6774, 8946, 8948.

[6] 7 F.R. 1375, 1836, 2107, 2000, 2132, 2300, 2299, 2739, 3163, 3327, 3447, 3962, 4732, 7599, 8937, 8948.

[7] 7 F.R. 3038, 3211, 3522, 3578, 3824, 3905, 4405, 5224, 5405, 5567, 5836, 6005, 6484, 7451, 8217, 8941, 9002, 8948, 9969, 8 F.R. 274, 2338.

[8] 7 F.R. 4273, 4541, 4618, 5180, 5716, 6004, 6424, 8948.

(8) 27 C 13 (INT) a (balloon cloth).
(9) 6-39-G (balloon cloth).
(10) AN-CCC-C-399 (airplane cloth).
(11) Marine Corps Specification April 18, 1934, Revised to March 10, 1942 (marine shirting).
(12) M 54 (rubberized fabric).
(13) 27 L 6 (black lining twill).
(14) Specifications described in invitation Neg. 336 (balloon cloth substitute).

[§ 1400.78a added by Amendment 6, 7 F.R. 5364]

§ 1400.79 *Enforcement.* (a) Persons violating any provision of this Maximum Price Regulation No. 127 are subject to the civil and criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this Maximum Price Regulation No. 127 or any price schedule, regulation or order issued by the Office of Price Administration or of any acts or practices which constitute such a violation are urged to communicate with the nearest field or regional office of the Office of Price Administration or its principal office in Washington, D. C.

[NOTE: The provisions of Supplementary Order No. 36, (8 F.R. 1798), licensing sellers of yarns, textiles, textile products and services relating thereto, are applicable to sellers whose sales are subject to Maximum Price Regulation No. 127.]

§ 1400.80 *Petitions for amendment or adjustment.* (a) Any person seeking an amendment of any provisions of this Maximum Price Regulation No. 127 may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.

[Paragraph (a) as amended by Supplementary Order 26, 7 F.R. 8948]

(b) A petition for adjustment may be filed by any converter whose production of finished piece goods is sold predominantly to manufacturers exclusively engaged in the production of relatively expensive dresses and who, by virtue of the terms of this Maximum Price Regulation No. 127, would suffer hardship with respect to his entire business: *Provided,* That

(1) Any such petition shall contain or be accompanied by a sworn statement showing:

(i) A list of the names and addresses of the dress manufacturers to whom the petitioner sells the principal part of his production.

(ii) The percentage of his total production which is sold to the enumerated customers.

(iii) The petitioner's gross sales during the years 1940 and 1941.

(iv) A full statement of all facts upon which petitioner relies in showing that hardship will result from the operation of this Maximum Price Regulation No. 127.

(v) A specific statement of the adjustment requested.

(2) Any person who has properly filed a petition for adjustment under this paragraph, and who has received notice that such petition has been docketed may, pending formal action upon such petition by the Office of Price Administration, sell and deliver finished piece goods in accordance with the prices which would be permissible under the General Maximum Price Regulation: *Provided, however,* That final settlement shall be made at prices no higher than are finally approved by the Office of Price Administration, and, if required, refunds shall be made.

EXPLANATORY NOTE:—For the purpose of this paragraph, the Office of Price Administration has determined that only a dress manufacturer whose minimum wholesale price line is $16.00 or more would constitute a "manufacturer of relatively expensive dresses" except that in the case of dresses produced from all cotton fabrics such price line may be as low as $3.75.

(3) The Price Administrator may grant such adjustment upon such terms and conditions as shall appear reasonable and necessary under all the circumstances.

[Paragraph (b) as amended by Amendment 6, 7 F.R. 5364]

(c) [Revoked by Amendment 10, March 10, 1943]

[NOTE: Procedural Regulation No. 6 (7 F.R. 5087, 5665) provides for the filing of applications for adjustment of maximum prices for commodities or services under Government contracts or subcontracts. Supplementary Order No. 9 (7 F.R. 5444) makes the provisions of Procedural Regulation No. 6 applicable to all price regulations, with the exception of those on scrap, waste, and salvage materials.]

[NOTE: Supplementary Order No. 28 (7 F.R. 9619) provides for the filing of applications for adjustment or petitions for amendment based on a pending wage or salary increase requiring the approval of the National War Labor Board.]

§ 1400.81 *Definitions.* (a) When used in this Maximum Price Regulation No. 127, the term:

(1) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(2) "Finished piece goods" means woven fabrics, more than 12 inches in width, bleached, dyed, printed, mercerized or otherwise finished or processed, composed—in the amount of seventy-five percent or more by weight—of either cotton fibre or chemically produced yarn or fibre made from cellulose or with a cellulose base, or of any mixtures thereof, regardless of what other material may be included in the fabric.

[Paragraph (2) as amended by Amendment 2, 7 F.R. 4180]

(3) "Class I purchaser" includes an export merchant, foreign purchaser or agent of a foreign purchaser, any agency of the federal government, any agency of a state, county or municipal government, a cutter, manufacturer, converter-jobber, jobber or wholesaler (except as provided in subparagraph (4) of this paragraph), and any similar class of purchaser not specifically enumerated herein.

[Paragraph (3) as amended by Amendments 2 and 5, 7 F.R. 4180, 4762]

(4) "Class II purchaser" includes a retailer (whether independent retailer, chain store or mail order house), private hospital or other similar private institution, hotel, steamship company, canvasser, tailor supply store, tailor trimming store, decorative goods jobber, interior decorator, milliners' supply house, dressmakers' supply house, custom shirtmakers' supply house, and any similar class of purchaser not specifically enumerated herein.

[Paragraph (4) as amended by Amendment 6, 7 F.R. 5364]

(5) "Converter" means a person who sells finished piece goods after having finished such goods or after causing them to be finished for his account.

(6) "Sales at retail" means sales to the ultimate consumer: *Provided,* That no cutter, manufacturer, purchaser for resale, or other commercial user shall be deemed to be an ultimate consumer.

(7) "Export merchant" means a jobber of finished piece goods engaged in exporting finished piece goods (either exclusively or in addition to selling such goods in the domestic market) who (i) buys goods for his own account, (ii) takes title to the goods, (iii) sells them direct, or through customary trade channels, to foreign purchasers or agents of foreign purchasers, and (iv) assumes all risks of loss until title to the goods passes to the foreign buyer according to the terms of the sale.

(8) "Decorative goods jobber" means a person customarily engaged in the business of and whose principal business consists of selling upholstery fabrics, drapery fabrics, slip cover fabrics and other finished piece goods, in cut lengths of specified yardage, to interior decorators.

(9) "Converter-jobber" means a converter who is also regularly engaged in performing, in addition to his converting business, the function of a jobber or wholesaler, and includes a jobber or wholesaler controlling, controlled by or under common control with a converter.

(10) "Atlantic seaboard States" means Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, District of Columbia, West Virginia, North Carolina, South Carolina, Georgia, Tennessee, Florida, Kentucky, Alabama and Mississippi.

[Paragraphs (9) and (10) added by Amendment 2, 7 F.R. 4180]

(11) "Women's shoe fabric supplier" means a person engaged in the business of and whose principal business consists of supplying to shoe manufacturers and shoe ornament manufacturers fabrics destined for use as outer fabrics, heel coverings, linings and ornaments for women's novelty shoes (a substantial part of such business being done in outer fabrics), and who, by business custom, has customarily given to such manufacturer a warranty that the fabric is suitable as a shoe fabric.

(12) "Ecclesiastical fabrics" means finished piece goods woven, printed, dyed or embossed in colors, patterns or designs prescribed by religious law or tradition, and sold exclusively for use in the manufacture of religious accessories.

(13) "Metallic fabrics" means finished piece goods which contain woven metal in the amount of five percent or more by weight.

[Paragraphs (11) through (13) added by Amendment 6, 7 F.R. 5364]

(14) "Loom-finished fabrics" means yarn-dyed or warp-printed piece goods which (i) are woven on a non-automatic loom; (ii) are made from warps of 800 yards or less; (iii) are woven on the basis of 6 looms or less per weaver; (iv) are produced in quantities of 5000 yards or less per warp design per month; (v) require no finishing other than calendering or framing after leaving the loom; and (vi) constitute a type not commercially traded in as grey goods.

[Paragraph (14) added by Amendment 6, 7 F.R. 5364, and amended by Amendment 9, 7 F.R. 9823]

(15) "Furrier supplier" means a person customarily engaged in the business of and whose principal business with respect to finished piece goods consists of supplying to manufacturers, repairers and alterers of fur garments, finished piece goods in cut lengths of specified yardage, and includes any person engaged exclusively in supplying to manufacturers, repairers and alterers of fur garments fabrics constructed and processed especially for fur linings.

[Paragraph (15) added by Amendment 6, 7 F.R. 5364, and amended by Amendment 7, 7 F.R. 5675]

(16) (i) "War procurement agency" means the War Department, the Department of the Navy, the United States Maritime Commission, and the Lend-Lease Section in the Procurement Division of the Treasury Department; or any agency of the foregoing, and shall be deemed to include stores operated as Army Canteens, post exchanges or ship's service activities. The term "war procurement agency" shall also include "contractor" and "subcontractor" as defined in subdivision (ii) of this subparagraph.

(ii) "Contractor" and "subcontractor" means any person who contracts to sell finished piece goods or a commodity processed or made from such goods to, respectively, any war procurement agency or any person who physically incorporates such goods or a commodity processed or made from such goods in an article being processed or made for any war procurement agency.

(17) "Tailor trimming store" includes a tailor supply house, and means a person engaged in the business of and whose principal business consists of supplying finished piece goods in cut lengths of specified yardage and other supplies to tailors engaged in the production of individually ordered items of apparel or in the repairing or alteration thereof.

(18) "Dressmakers' supply house" means a person engaged in the business of and whose principal business consists of supplying finished piece goods in cut lengths of specified yardage and other supplies to dressmakers engaged in the production of individually ordered items of apparel or in the repairing or alteration thereof.

(19) "Milliners' supply house" means a person engaged in the business of and whose principal business consists of supplying finished piece goods in cut lengths of specified yardage and other supplies to persons engaged in the producing, repairing or altering of millinery.

[Paragraphs (16) through (19) added by Amendment 6, 7 F.R. 5364]

(20) "Artificial flower manufacturers' supplier" means a person engaged in the business of and whose business with respect to finished piece goods consists exclusively of supplying specially finished piece goods for use in the manufacture of artificial flowers, to persons engaged in such manufacture.

[Paragraph (20) added by Amendment 7]

(21) "Producer" means the person in whose mill grey or colored-yarn goods are woven, and includes any agent of the producer and any person controlling, controlled by, or under common control with the producer.

[Paragraph (21) added by Amendment 9, 7 F.R. 9823]

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

§ 1400.82 *Appendix A: Maximum prices for finished piece goods*—(a) *Method of determining maximum prices.* Except as otherwise specifically provided in this section, the maximum net selling price, f. o. b. point of shipment[9] for finished piece goods shall be the aggregate of the five items set forth below in this paragraph (subparagraphs (1) to (5), inclusive) divided by the appropriate division factor set forth in paragraph (g) of this section:

(1) Basic grey goods cost, determined in accordance with paragraph (b) of this section.

(2) The grey freight, determined in accordance with paragraph (c) of this section.

(3) Working allowance, determined in accordance with paragraph (d) of this section.

(4) Finishing cost, determined in accordance with paragraph (e) of this section.

(5) Put up charges, determined in accordance with paragraph (f) of this section.

[Paragraph (a) as amended by Amendment 2, 7 F.R. 4180]

(b) *Basic grey goods cost.* (1) Except as otherwise specifically provided in this paragraph and in paragraph (d) of this section, the basic grey goods cost to be used in determining the maximum price for finished piece goods shall be no higher than the established maximum price therefor on the day the contract for the sale of finished piece goods is made, or on the day the goods enter into the finishing process, whichever is earlier.

[Paragraph (1) as amended by Amendment 6, 7 F.R. 5364]

(2) For persons, commonly called vertical organizations, customarily engaged in processing their own goods or goods owned by subsidiaries or affiliates, the basic grey goods cost to be used in computing the maximum price under paragraph (a) shall be determined as follows:

(i) For grey or partially finished goods acquired from an outside source other than a subsidiary or affiliate, the basic grey goods cost shall be computed in accordance with subparagraph (1) above.

(ii) For grey goods produced by such person or by a subsidiary or affiliate, for which maximum prices are established by Revised Price Schedule No. 11,[10] Revised Price Schedule No. 35,[11] or Revised Price Schedule No. 23, as Amended,[12] the basic grey goods cost shall be no higher than the established maximum price therefor on the day the contract for the sale of finished piece goods is made, or on the day the goods enter into the finishing process, whichever is earlier.

(iii) For any other grey goods produced by such person or by a subsidiary or affiliate,[13] the basic grey goods cost shall be no higher than the maximum price which would be applicable for a sale of such grey goods to a converter on the day the contract for the sale of finished piece goods is made, or on the day the goods enter into the finishing process, whichever is earlier.

(3) For finished piece goods which are produced from grey goods produced in and imported from a foreign country, the basic grey goods cost shall be no higher than the actual landed, duty paid, cost of such grey goods.

[Paragraphs (2) and (3) as amended by Amendment 2, 7 F.R. 4180]

[9] Where a converter or a subsidiary or affiliate of a converter, sells converted goods from a point of shipment which is located outside of the Atlantic Seaboard States, and the finishing operations with respect to such goods are performed in any of such Atlantic Seaboard States, the seller may add to the otherwise applicable maximum price the actual transportation charges incurred in bringing the finished piece goods to such point of shipment. If the goods are transported to such point of shipment in a conveyance other than a common carrier, the charge shall not exceed the charge which would be applicable in an identical shipment at the lowest available commercial transportation rate.

[10] 7 F.R. 1231, 1836, 2000, 2132, 2737, 3163, 5519, 7434, 8936, 8948, 10009, 10534; 8 F.R. 262, 361, 2206.

[11] 8 F.R. 1963.

[12] 7 F.R. 2899, 2966, 2945, 4342, 3481, 6771, 8948.

[13] This includes, but is not limited to, grey goods which would, if sold, be subject to Maximum Price Regulation No. 118—Cotton Products. 7 F.R. 3038, 3211, 3522, 3578, 3824, 3905, 4405, 5224, 5405, 5567, 5836, 6005, 6484.

(4) If for any reason the basic grey goods cost cannot be determined under subparagraphs (1) and (2) of this paragraph, then the basic grey goods cost shall be no higher than the established maximum price for such grey goods on July 14, 1942.

[Paragraph (4) as amended by Amendment 6, 7 F.R. 5364]

(5) [Revoked by Amendment 6, 7 F.R. 5364]

(c) *Grey freight.* (1) Subject to the other provisions of this paragraph (c), the grey freight which may be included in computing the maximum price under paragraph (a) of this section shall be no higher than actual transportation charges paid by the seller of the finished piece goods (not absorbed by the finisher) incurred in transporting the basic grey goods to the finishing plant where the finishing process is begun.

(2) In the event the grey goods are transported in a conveyance owned or operated by the converter, or the finisher, or by a person controlling, controlled by, or under common control with the converter or the finisher, and the charges are not absorbed by the finisher, the freight charge shall not exceed the charge which would be applicable to an identical shipment from the same point of shipment to the same receiving point at the lowest available commercial transportation rate.

(3) Where goods are shipped from the grey goods mill to a point other than the finishing plant where the finishing process is begun, only the actual freight (which is not absorbed by the finisher) incurred in the final shipment from such other point to the finishing plant where the finishing process is begun may be used in determining the maximum price under paragraph (a) of this section.

(4) Where goods are trans-shipped from one finishing plant to another (after the goods are partially or wholly finished), the freight charges on such trans-shipments shall not be included in computing the maximum price under paragraph (a) of this section: *Provided,* That if partially finished goods are trans-shipped from one finishing plant to another for the purpose of screen printing, flock printing, or lacquer printing at the second plant, then the freight charges on such trans-shipment may be included in computing the maximum price under paragraph (a) of this section.

(5) For the purpose of determining a grey freight charge in order to quote prices for and make sales of finished piece goods in advance of actual shipment of the grey goods a seller of finished piece goods may use the following allowance for grey freight:

(i) *Grey goods containing more than 50% cotton by weight.* For shipments from any point in Zone I[14] to any point in Zone II[15] or shipments from any point in Zone II to any point in Zone I, an allowance of 55¢ per hundred pounds less any inward freight allowance made by the finisher; for shipments from any point in Zone I to a point in Zone I or for shipments from any point in Zone II to a point in Zone II, an allowance of 20¢ per hundred pounds, less any inward freight allowance made by the finisher.

(ii) *Grey goods containing 50% cotton or less by weight.* For shipments from any point in Zone I to any point in Zone II or for shipments from any point in Zone II to any point in Zone I, an allowance of 85¢ per hundred pounds less any inward freight allowance made by the finisher; for shipments from any point in Zone I to a point in Zone I, or for shipments from any point in Zone II to a point in Zone II, an allowance of 25¢ per hundred pounds, less any inward freight allowance made by the finisher: *Provided,* That in all cases where a forward sale is made upon the basis provided herein, the price may not be subsequently altered after an actual determination of grey freight charges has been made.

[Paragraph (c) as amended by Amendment 2, 7 F.R. 4180]

[NOTE: Supplementary Order No. 31 (7 F.R. 9894) provides that: "Notwithstanding the provisions of any price regulation, the tax on transportation of all property (excepting coal) imposed by section 620 of the Revenue Act of 1942 shall, for purposes of determining the applicable maximum price of any commodity or service, be treated as though it were an increase of 3% in the amount charged by every person engaged in the business of transporting property for hire. It shall not be treated under any provision of any price regulation or any interpretation thereof, as a tax for which a charge may be made in addition to the maximum price."]

(d) *Working allowance*—(1) *For finished piece goods containing 50% or more of rayon by weight.* Except as provided in subparagraphs (3) and (4) of this paragraph, the working allowance which may be used in determining the maximum price under paragraph (a) of this section shall be the actual figure specified by the finisher in his contract: *Provided,* That if the working allowance specified in the contract shall exceed the actual shrinkage of the fabric as determined by the increase of finished pick count over grey goods pick count plus not more than 2% tolerance for physical loss of goods occasioned by handling and processing the fabric, then such actual shrinkage plus such 2% tolerance shall constitute the maximum working allowance to be used in determining the maximum price for the finished piece goods.

In the event that there is a net yardage gain as a result of the finishing process, such gain must be deducted from the basic grey goods cost under paragraph (b) of this section.

(2) *For finished piece goods containing less than 50% of rayon by weight.* Except as provided in subparagraphs (3) and (4) of this paragraph, the working allowance which may be used in determining the maximum price under paragraph (a) of this section shall be the actual working allowance specified by the finisher in his contract.

In the event that there is a net yardage gain as a result of the finishing process, such gain must be deducted from the basic grey goods cost under paragraph (b) of this section.

(3) *For vertical organizations.* For persons, commonly called vertical organizations, customarily engaged in processing their own goods or goods owned by subsidiaries or affiliates, the working allowance used in determining the maximum price under paragraph (a) of this section shall not exceed the allowance which would be applicable had the finishing operation been performed by an independent finisher.

(4) *For any new construction or for any new finishing process.* The working allowance for any new construction or for any new finishing process may be determined in a preliminary manner from the actual yield of a carefully controlled lot of not less than 1,000 yards of the finished goods: *Provided,* That the working allowance to be used in determining the maximum price for the finished piece goods shall not exceed the shrinkage determined by the actual yield of the first 10,000 yards of finished fabric.

(e) *Finishing cost.* Subject to the following provisions, the finishing cost shall be the price specified in the finishing contract and actually paid by the seller of the finished goods and shall not include any finishing costs incurred by any person prior to the acquisition of the goods by such seller.

(1) If the price specified in the finishing contract is made on a "silk basis" or a "store door delivered basis", (i. e., including put up and delivery charges) then such price shall, for the purpose of determining the appropriate division factor, be reduced by ¼¢ per yard: *Provided,* That the total finishing cost may be included in the final computation of the maximum price for the finished piece goods.

(2) If the price specified in the finishing contract is made on a "cotton basis" (that is, f. o. b. finishing plant) such price, exclusive of charges for cases, papers and tubes, shall, for the purposes of determining the appropriate division factor, constitute the finishing cost.

(3) [Revoked by Amendment 10, March 10, 1943]

(4) Where fabrics are printed both face and back, whether register-printed or not, the finishing cost which may be used in determining the appropriate division factor under paragraph (g) of this section shall be 75% of the price specified in the finishing contract and actually paid by the converter: *Provided,* That the full cost of such printing may be included in the final computation of the maximum price for the finished piece goods.

(5) For persons, commonly called vertical organizations, customarily engaged in processing their own goods or goods owned by subsidiaries or affiliates, the finishing cost used in determining the appropriate division factor under para-

[14] Zone I shall consist of the New England States, New York, Pennsylvania, New Jersey, Delaware, Maryland, Ohio, Indiana and Michigan, and the District of Columbia.

[15] Zone II shall consist of all other states.

graph (g) of this section shall not exceed the amount which such persons are entitled to charge under Maximum Price Regulation No. 128[16] Processing Piece Goods: *Provided,* That if such persons have finishing operations performed by independent finishers, the finishing cost shall be determined in accordance with the foregoing provisions of this section.

(6) Extra charges actually made for special folding such as doubling and rolling and book fold, may be included in the finishing cost for the purpose of determining the division factor and the maximum price: *Provided,* That if such special folding is done by a person other than the person performing the finishing operations, the amount which may be included shall be no more than ¼¢ per yard.

[Paragraph (6) added by Amendment 2, 7 F.R. 4180]

(f) *Put-up charges.* (1) Except as provided in subparagraph (3) of this paragraph, the put-up charges which may be used under paragraph (a) (5) of this section shall include only the charges for papers, boards, tubes and packing cases and, in the case of sales for export, the charges for export packing. In no event (except for export sales) shall charges for wooden shells be included in such computation.

(2) For persons, commonly called vertical organizations, customarily engaged in processing their own goods or goods owned by subsidiaries or affiliates, the put-up charges used under paragraph (a) (5) of this section in determining the maximum price for finished piece goods shall not exceed the charges which would be applicable had such services been performed and such material furnished by an independent finisher.

(3) Where the finishing cost is on a "cotton basis," a seller of finished piece goods may, for the purpose of determining a put-up charge as defined in subparagraph (1) of this paragraph, in order to quote prices for and make sales of finished piece goods in advance of actual production thereof, use a put-up charge of .0020 per yard: *Provided,* That in all cases where a forward sale is made upon the basis provided herein, the price may not be subsequently altered after an actual determination of the put-up charges has been made.

[Paragraph (f) as amended by Amendment 2, 7 F.R. 4180]

[NOTE: Supplementary Order No. 34 (7 F.R. 10779) permits special packing expenses to be added to maximum prices on sales to procurement agencies of the United States.]

(g) *Tables of division factors*—(1) *In general.* (i) Table I set forth below is to be used with respect to finished piece goods containing 75% or more of cotton by weight unless 4% or more of coverage of the warp or 4% or more of coverage of the filling in the finished goods is yarn dyed or stock dyed. In the latter case, reference must be made to Tables III and IV below. The division factor is determined by reference to the finishing cost (see paragraph (e) of this section), the class of purchaser to whom the sale is made, and the type of finish that is applied.

(ii) Table II set forth below is to be used with respect to finished piece goods containing less than 75% cotton by weight unless 4% or more of coverage of the warp or 4% or more of the coverage in the filling in the finished goods is yarn dyed or stock dyed. In the latter case reference must be made to Tables III and IV below. The division factor is determined by reference to the finishing cost (see paragraph (e) of this section), the class of purchaser to whom the sale is made, and the type of finish that is applied.

(iii) Table III set forth below is to be used with respect to finished piece goods of which 4% or more of coverage of the warp in the finished goods is yarn dyed or stock dyed, and of which none of the filling is yarn dyed or stock dyed and with respect to finished piece goods of which 4% or more of coverage of the filling is yarn dyed or stock dyed and of which none of the warp is yarn dyed or stock dyed, regardless of the rayon or cotton content, and regardless of the finish that is applied thereto. The division factor is determined by reference to the percentage of coverage of the warp or filling that is yarn dyed or stock dyed and the class of purchaser to whom the sale is made.

(iv) Table IV set forth below is to be used with respect to finished piece goods of which 4% or more of coverage of the warp in the finished goods is yarn dyed or stock dyed, and of which some part of the filling is yarn dyed or stock dyed, regardless of the rayon or cotton content, and regardless of the finish that is applied thereto. The division factor is determined by reference to the percentage of coverage of colored yarn in both the warp and filling and the class of purchaser to whom the sale is made.

[Paragraph (1) (i) through (iv) as amended by Amendment 2]

(v) A converter whose production of finished piece goods during the years 1939, 1940 and 1941 consisted predominantly of better cotton wash fabrics which (*a*) are composed 100% of cotton, (*b*) are sold to manufacturers of women's and children's dresses, suits and sportswear and to retail outlets, and (*c*) are of a type that, during the period from August 1, 1941, to September 30, 1941, inclusive, were sold at a price of 27½ cents or more per yard, net after discount, may use Table Ia set forth below with respect to such fabrics: *Provided,* That no converter shall use Table Ia unless, on or before December 15, 1942, he shall have filed his name and address with the Office of Price Administration, Washington, D. C., certifying that he meets the above qualifications, and shall have received written acknowledgment of that fact.

[Paragraph (v) added by Amendment 9, 7 F.R. 9823]

(2) *Cotton finished piece goods.*—(i) *General.* Except for yarn dyed fabrics covered by subparagraph (4), Tables III and IV, this Table I is to be used for all finished piece goods containing 75% or more cotton by weight.

TABLE I—DIVISION FACTORS FOR FINISHED PIECE GOODS CONTAINING 75% OR MORE OF COTTON BY WEIGHT

Finishing cost [1] (cents per yard)	White and dyed (except jacquards)		Printed and jacquards	
	Sales to class I purchaser	Sales to class II purchaser	Sales to class I purchaser	Sales to class II purchaser
Up to 1.99	0.89	0.85	0.88	0.84
2.00–4.49	.88	.84	.87	.83
4.50–7.99	.87	.83	.855	.815
8.00–11.99	.86	.82	.835	.79
12.00–16.99	.84	.80	.815	.76
17.00–24.99	.84	.80	.79	.73
25.00 and up	.84	.80	.77	.70

[1] Determined in accordance with paragraph (e) of this section.

[Table I as amended by Amendment 6]

(ii) *Fine cotton wash fabrics.* This Table Ia is to be used by converters who meet the qualifications of subparagraph (1) (v) above.

TABLE Ia—DIVISION FACTORS FOR CERTAIN BETTER COTTON WASH FABRICS

White and plain dyed		Printed and yarn dyed	
Sales to Class I purchaser	Sales to Class II purchaser	Sales to Class I purchaser	Sales to Class II purchaser
0.80	0.76	0.74	0.74

[Paragraph (ii) added by Amendment 9, 7 F.R. 9823]

(3) *Rayon finished piece goods.* Except for yarn dyed fabrics covered by subparagraph (4), Tables III and IV, this Table II is to be used for all finished piece goods containing less than 75% cotton by weight.

TABLE II—DIVISION FACTORS FOR FINISHED PIECE GOODS CONTAINING LESS THAN 75% COTTON BY WEIGHT

Finishing cost [1] (cents per yard)	White and dyed (except jacquards)		Printed and jacquards	
	Sales to class I purchaser	Sales to class II purchaser	Sales to class I purchaser	Sales to class II purchaser
Up to 3.99	0.85	0.81	0.83	0.79
4.00–7.99	.84	.80	.82	.78
8.00–11.99	.83	.79	.81	.77
12.00–16.99	.81	.77	.79	.74
17.00–24.99	.80	.75	.77	.72
25.00 and up	.80	.75	.75	.70

[1] Determined in accordance with paragraph (e) of this section.

[Table II as amended by Amendment 6]

[16] 7 F.R. 3117, 4659, 6615, 8948.

(4) *Yarn dyed fabrics.*

TABLE III—DIVISION FACTORS FOR YARN DYED OR STOCK DYED FINISHED PIECE GOODS, COLORED WARP ONLY, OR COLORED FILLING ONLY [1]

Percentage of coverage of colored yarn in warp or filling (all numbers inclusive)	Sales to class I purchaser	Sales to class II purchaser
4 to 15.99	0.86	0.81
16 to 30.99	.85	.80
31 to 45.99	.84	.79
46 to 60.99	.83	.78
61 to 75.99	.82	.77
76 and over	.81	.76

[1] Table III shall be used for all finished piece goods (irrespective of the percentage of rayon or cotton content) of which 4 percent or more of coverage of the warp is yarn dyed or stock dyed and of which none of the filling is yarn dyed or stock dyed, and for finished piece goods of which 4 percent or more of coverage of the filling is yarn dyed or stock dyed and of which none of the warp is yarn dyed or stock dyed.

[Table III, as amended by Amendment 2, 7 F.R. 4180]

TABLE IV—DIVISION FACTORS FOR YARN DYED OR STOCK DYED FINISHED PIECE GOODS, COLORED WARP AND COLORED FILLING [1]

Total percentage of coverage of colored yarn in both warp and filling (all numbers inclusive)	Sales to class I purchaser	Sales to class II purchaser
4 to 15.99	0.85	0.80
16 to 30.99	.835	.785
31 to 45.99	.82	.77
46 to 60.99	.865	.755
61 to 75.99	.79	.74
76 and over	.78	.73

[1] Table IV shall be used for all finished piece goods (irrespective of the percentage of cotton or rayon content) of which 4% or more of coverage of the warp is yarn dyed or stock dyed and of which any percentage of the filling is yarn dyed or stock dyed.

(h) *Credit terms.* (1) The maximum prices established by this Maximum Price Regulation No. 127 are net selling prices.

(2) If a seller desires to sell on a discount basis of 2% off ten days, sixty days extra, he may compute the maximum price on such a sale by dividing the net price by .97: *Provided,* That if any such sale is made, the seller must allow the buyer the following discounts:

(i) If payment is made within 10 days after delivery, a discount of 3%;

(ii) If payment is made within the next sixty days, a discount of 2% plus ½ of 1% per month for any portion of the sixty days which is anticipated.

(3) If a seller desires to sell on a discount basis of net 10 days, sixty days extra, he may compute the maximum price on such a sale by dividing the net price by .99: *Provided,* That if any such sale is made, the seller must allow the buyer the following discounts:

(i) If payment is made within 10 days after delivery, a discount of 1%.

(ii) If payment is made within the next 60 days, a discount of ½ of 1% per month for any portion of the sixty days which is anticipated.

[Paragraph (3) as amended by Amendment 2, 7 F.R. 4180]

(4) The maximum net prices may be increased by an appropriate division factor (in accordance with the formula set forth in subparagraphs (2) and (3) of this paragraph) in any case where the credit terms do not exceed a discount of 3 percent nor a time period in excess of 70 days from the date of the invoice but may not otherwise be increased for the purpose of granting other credit or discount terms.

[Paragraph (4) as amended by Amendment 7, 7 F.R. 5675]

(i) *Wholesalers and jobbers*—(1) *General provisions.* Subject to the other provisions of this paragraph, the maximum price for finished piece goods sold in the performance of a recognized distributive function [17] by a wholesaler, jobber or converter-jobber selling jobbed goods, shall be computed by dividing the actual cost [18] by .83 if the sale is to a Class II purchaser and by dividing the actual cost by .88 if the sale is to a Class I purchaser: *Provided,* That contracts entered into between May 4, 1942, and June 3, 1942, at prices in compliance with the provisions of this Maximum Price Regulation No. 127 (§§ 1400.71 to 1400.84, inclusive), as then in force, may be carried out at the contract price.

[Paragraph (1) as amended by Amendment 5, 7 F.R. 4762]

(2) *Restrictions on jobbers' and wholesalers' mark-up.* No part of the mark-up provided for in subparagraph (1) of this paragraph, may be charged:

(i) [Revoked by Amendment 2, 7 F.R. 4180].

(ii) On a sale by a wholesaler or jobber to a converter or a converter-jobber;

[Paragraph (ii) as amended by Amendment 2]

(iii) [Revoked by Amendment 2].

(iv) On an export sale by an export merchant;

(v) On a sale of jobbed goods to any person by a converter-jobber unless and until authorized under subparagraph (3) of this paragraph: [19] *Provided,* That a converter-jobber who has properly filed a petition for exception under subparagraph (3) of this paragraph, and has been notified by the Secretary of the Office of Price Administration that his petition has been docketed, may, until such time as the petition is acted upon by the Office of Price Administration, sell and deliver the goods which he purchases or has purchased as a jobber or wholesaler in accordance with other provisions of this paragraph (i): *Provided, however,* That on and after July 1, 1942, the percentage of such jobbing business shall be no greater in relation to his total sales of finished piece goods than the average percentage of such business during the years 1939, 1940, and 1941, or during such part thereof as he acted as a converter-jobber. The restrictions imposed by this subdivision (v) shall not be applicable to a jobber whose converting business consists solely of sales of finished piece goods to a war procurement agency.

[Paragraph (v) as amended by Amendments 2 and 10]

(vi) On a resale of finished piece goods by a cutter or manufacturer: *Provided,* That this restriction shall not apply (*a*) where such a resale is made in pursuance of an established trade practice by which the cutter or manufacturer is required, as a necessary part of making sales of his cut or manufactured articles, to furnish to his buyers an additional quantity of piece goods identical with or similar to the goods from which such articles are cut or manufactured; or, (*b*) where a cutter or manufacturer who, as a separate and substantial portion of his business has regularly been engaged in wholesaling or jobbing, resells finished piece goods purchased exclusively for the purpose of resale and not for use in connection with his cutting or manufacturing operations. Every cutter or manufacturer falling within the category defined in (*b*) above shall, on or before December 15, 1942, file his name and address with the Office of Price Administration, Washington, D. C.

[Paragraph (vi) as amended by Amendment 9, 7 F.R. 9823]

(3) *Petitions for exception by a converter-jobber.* Any converter-jobber, as defined in § 1400.81 hereof, who desires to continue operating as such, may petition the Office of Price Administration for an exception from the provisions of § 1400.82 (i) (2) (v), and for permission so to do. The Price Administrator may grant such exception upon such terms and conditions as shall appear reasonable and necessary under all the circumstances: *Provided,* That no such petition

[17] No sale is made "in the performance of a recognized distributive function" within the meaning of this Maximum Price Regulation No. 127 unless it advances the goods sold to the next stage of distribution.

[18] The actual cost may include only (a) the invoice price of the finished piece goods less all discounts taken (which must not, for any purchases made on or after May 4, 1942, exceed the maximum price established by this Maximum Price Regulation No. 127) and (b) the actual transportation charges incurred by the wholesaler or jobber with respect to such finished piece goods. If the goods are transported in a conveyance other than a commercial carrier, the transportation charge shall not exceed the charge which would be applicable in an identical shipment from the same point of shipment to the same receiving point at the lowest available commercial transportation rate.

A wholesaler, jobber or converter-jobber, where he mingles in his inventory separate lots of the same pattern of printed goods or separate lots of the same bleached goods, or separate lots of the same dyed goods, which he acquired at varying prices, may take the weighted average cost of such mingled lot for the purpose of determining his actual cost thereof: *Provided,* That if any unsold portion of a lot on which an average cost has been determined is subsequently combined with another lot, the previously determined weighted average cost of such unsold portion shall be used for such unsold portion in computing the weighted average cost of the newly mingled lot.

[19] It is the intention of the Office of Price Administration that this subparagraph shall apply to converters who also act as jobbers and wholesalers and to wholesalers or jobbers who also do some converting.

will be considered unless it is filed in accordance with the provisions of Procedural Regulation No. 1, issued by the Office of Price Administration.

[Paragraph (3) as amended by Amendment 2, 7 F.R. 4180]

(4) Where a sale is made by a converter-jobber, wholesaler or jobber to another converter-jobber, wholesaler or jobber or to an export merchant, the maximum price which the purchaser may charge on a domestic resale shall be no higher than the price which the original wholesaler, jobber or converter-jobber would be entitled to charge.

[Paragraph (4) added by Amendment 2, 7 F.R. 4180]

(5) *Charges for special folding by a wholesaler or jobber.* The actual cost, but not more than ½¢ per yard, may be added to the selling price of finished piece goods by a wholesaler, jobber or converter-jobber selling jobbed goods, for special folding such as doubling and rolling and book fold: *Provided,* That, (i) special folding has not been performed before the goods were purchased by the wholesaler, jobber or converter-jobber;

(ii) Special folding was performed by or for the account of the wholesaler, jobber or converter-jobber;

(iii) No part of the mark-up provided for in subparagraph (1) of this paragraph may be applied to the cost of such special folding; and

(iv) The portion of the total selling price attributable to special folding shall be itemized separately in an invoice or similar document which shall be delivered to the purchaser of the goods.

(j) *Export sales.* The maximum price at which a person may sell or deliver finished piece goods for export shall be determined in accordance with the provisions of the Maximum Export Price Regulation issued by the Office of Price Administration on April 25, 1942.

(k) *Redyeing, reprinting and overprinting.* No charges for reprinting, redyeing or overprinting subsequent to the original finishing operation shall be or may be added to or included in the computation of the maximum prices established by this Regulation except for screen printing, flock printing, and lacquer printing.

(l) *Substandard goods.* The maximum prices above set forth shall be discounted for substandard goods as follows:

(1) Finishers' seconds and shorts (i. e. finished piece goods which are substandard as a result of finishing process):

Regular sized pieces discounted by 10%.

20 to 40 yard lengths discounted by 15%.

10 to 19.99 yard lengths discounted by 20%.

1 to 9.99 yard lengths discounted by 30%.

(m) *Exceptions.* Boott Mills, Lowell, Massachusetts may deliver bleached and shrunk Type C twill, 29'' wide, Specification 27 T 25, to the Department of the Navy of the United States, pursuant to Navy Contract NXS 5699, in a quantity not exceeding the amount called for by such contract, at a price not exceeding that specified in such contract.

[Paragraph (m) added by Amendment 4 7 F.R. 4587]

(n) *Premiums*—(1) *Sales of cut lengths.* A premium not exceeding 10% of the otherwise applicable maximum net price may be charged on the sale of cut lengths less than 20 yards when such lengths are cut from a larger piece to fill a specific order: *Provided,* That such premium may not be charged where the finished piece goods are produced in such cut lengths as a part of the original finishing operation: *Provided further,* That such premium may not be charged on a sale to a wholesaler or jobber.

[Paragraph (n) added by Amendment 6, 7 F.R. 5364]

(o) *Averaging of prices by converters.* Where a converter produces various colors of the same pattern or style, and where the maximum prices for such colors vary, or where a converter produces separate lots of the same pattern or style with a resulting variation in the maximum prices for such lots, he may after computing the maximum price separately for each color or each lot, determine and use as his maximum price for the entire pattern or style a weighted average of such varying prices.

[Paragraph (o) added by Amendment 7, 7 F.R. 5675]

(p) *Specific prices for shoe-lining fabrics.* (1) On and after August 26, 1942, notwithstanding any of the provisions of §§1400.77 and 1400.78 and any other provision of this § 1400.82 of this Maximum Price Regulation No. 127, and regardless of any contract, agreement, lease or other obligation the base maximum prices for the following fabrics when sold to shoe manufacturers for use as shoe linings shall be as set forth in Tables V, VI, and VIII hereof:

TABLE V—TWILLS AND DRILLS

Weight (yards per pound)	Finish	Maximum price (cents per yard)
1.50	Starch back twill	32.714
1.75	Starch back twill	29.164
2.00	Starch back twill	25.947
2.35	Starch back twill	23.765
1.50	Starch back napped twill	33.701
1.75	Starch back napped twill	30.152
2.35	Starch back drill	22.795
2.75	Starch back drill	20.370
3.95	Starch back drill	16.240

TABLE VI—FLANNELS

Weight (yds. per lb.)	Width (inches)	Maximum price (cents per yard)
6.00	40½	13.643
5.00	40½	14.903
4.00	40½	16.791
3.40	40½	18.551
3.00	40½	20.248
2.50	40½	23.401
2.00	40½	28.342
1.60	40½	34.107
3.50	37	17.945
Light (EW)*	47½	21.670
Medium (PNS)*	47½	22.441
3.00 (CD)*	37	20.248

*Trade name.

(2) In addition to the base maximum prices set forth in the foregoing tables, the following premiums may be charged for special services or extra finishing:

TABLE VIII

Services or finish	Premium (cents per yard)
For bleaching	1
For dyeing	2½
For double napping	½
For sales in quantities of less than 1,000 yds. per color and finish	½

(3) The maximum prices established by subparagraphs (1) and (2) hereof are subject to credit terms as set forth in paragraph (h) of this section.

(q) *Specific reductions in prices of work-clothing fabrics.* (1) Notwithstanding any of the provisions of § 1400.78 and any other provision of this § 1400.82 of this Maximum Price Regulation No. 127, the maximum prices computed hereunder for the following finished piece goods shall be reduced as set forth in Table IX hereof:

TABLE IX

Type of fabric	Weight	Width (inch basis)	Reduction (cents per yard)
Finished jeans	2.85 yds. per lb	36	¼
Finished drills	2.50 yds. per lb	28–29	½
Carded poplins	3.25 yds. per lb	35–36	¼
Carded poplins	2.85 yds. per lb	35–36	¼
Carded poplins	2.50 yds. per lb	35–36	½

[Table IX as amended by Amendment 10]

(2) The maximum prices established herein shall apply to contracts of sale entered into on or after August 26, 1942, and also to all deliveries made on or after that date against contracts entered into on or after May 4, 1942.

[Paragraphs (p) and (q) added by Amendment 8, 7 F.R. 6653]

(r) *Specific prices for private sales of certain Government-specification goods.* (1) Notwithstanding any of the provisions of §§ 1400.77 and 1400.78 and any other provisions of this § 1400.82 except

paragraph (i), and regardless of any contract, agreement, lease or other obligation, the maximum prices for finished piece goods of the types and made with reference to the specifications (in their present form or as hereafter amended) listed below, when such goods are sold to any person other than a war procurement agency, shall be as set forth in Table X hereof. The maximum prices so set forth are based on the widths therein indicated, and shall be reduced or increased in proportion to any reduction or increase in such widths which may be authorized or required by such specifications.

TABLE X

Description	Specification	Width (inch basis)	Maximum price (cents per yd.)
8.2 combed uniform twill, khaki color	P. Q. D. No. 33-A		
Type I		36	66
Type II		36	63
Type III		36	56
Type IV		36	43.75
Type V		36	60.87
Bleached and shrunk twill, white	27 T 25		
Type C, 29" wide		29	40.96
Type D, 32" wide		32	41.59
Shrunk khaki suiting, 40" wide	Marine Corps Specification November 22, 1937.	40	56.90
6 oz. combed twill, khaki, 36" wide	P. Q. D. No. 95	36	43.75
Wind resistant cloth, olive drab	P. Q. D. No. 1		
Type II, poplin		36	62.00
Lining twill, olive drab	6-100B		
Albert twill		32	31.50
Mosquito netting, olive drab	P. Q. D. No. 17A		
35" wide		35	14.37
47" wide		47	19.28
Balloon cloth	27 C 13 (INT)		
Type BB		(*)	(*)
Type HH		(*)	(*)
Type MM		(*)	(*)
Type RR		(*)	(*)
Balloon cloth	6-39-G		
Type BB		(*)	(*)
Type HH		(*)	(*)
Type KK		(*)	(*)
Type MM		(*)	(*)
Type RR		(*)	(*)
Type SS		(*)	(*)
Airplane cloth	AN-CCC-C-390	(*)	(*)
Marine shirting, olive drab	Marine Corps Specification April 18, 1934, revised to March 10, 1942.		
Oxford 35½" wide		35½	30
Rubberized fabric	M 54	(*)	(*)
Black lining twill	27 L 6	(*)	(*)
Balloon cloth substitute	Specifications described in invitation Neg. 336.	(*)	(*)
8½ oz. carded herringbone twill			
36" standard 72 x 46	6-261 and amendment No. 1 thereto	36	39.50

*The maximum prices and width bases for goods so marked shall be the price and width specified in the last contract therefor awarded to the particular seller prior to August 26, 1942, by a war procurement agency, as defined in § 1400.81 (a) (16) (i) of this regulation. If the particular seller was not awarded any such contract prior to August 26, 1942, then his maximum prices and width bases shall be the price and width specified in the first contract therefor awarded to the particular seller on or subsequent to August 26, 1942, by a war procurement agency.

(2) The above maximum prices shall be discounted as follows:

(i) If the finished piece goods are rejects which are not finishers' seconds and are:

30 yards and up, discount by 5%.
20 to 30 yards, discount by 20%.
10 to 20 yards, discount by 30%.
1 to 10 yards, discount by 40%.

(ii) If the finished piece goods are finishers' seconds which are not rejects, they shall be discounted by the appropriate percentages set forth in § 1400.82 (l) (1);

(iii) If the finished piece goods are finishers' seconds of rejects, they shall first be discounted by the appropriate percentages set forth in subdivision (i) of this subparagraph and then by the appropriate percentages set forth in § 1400.82 (l) (1).

(3) When used in this subparagraph, "rejects" means finished piece goods which are rejected by a war procurement agency because they are made from defective grey goods, or are classified by the producer as grey goods which are below the standard required by the specification referred to in Table X.

(4) The maximum prices established by subparagraphs (1) and (2) of this paragraph are subject to credit terms as set forth in paragraph (h) of this section.

[Paragraph (r) added by Amendment 8, 7 F.R. 6653 and amended by Amendment 9, 7 F.R. 9823 and Amendment 10, March 10, 1943]

(s) *Restrictions on sales of finished piece goods by certain producers.* (1) After March 15, 1943, the percentage of the total business [20] of any producer during any calendar year which is represented by dollar sales of finished piece goods to persons other than cutters, manufacturers, retailers or war procurement agencies shall be no greater in relation to his total business than the average percentage of such dollar sales during the years 1939, 1940 and 1941. Sales of finished piece goods by a producer which are made after January 1, 1943, in fulfilment of firm commitments for the sale of such goods entered into prior to December 1, 1942, shall not be included by the producer in determining the percentage of his sales which are restricted.

(2) The restrictions contained in subparagraph (1) of this paragraph shall not apply to a producer:

(i) Whose total dollar sales of finished piece goods during the years 1939, 1940 and 1941 were greater than 50% of his aggregate dollar sales of grey and finished piece goods; or

(ii) Whose sales of finished piece goods consist solely of sales to a war procurement agency and of sales of rejects of such finished piece goods.

(3) Every producer selling finished piece goods shall, on or before April 15, 1943, file with the Office of Price Administration, Washington, D. C., his name, address, and a statement of whether or not he comes within the restrictions of this paragraph. Every producer who comes within the restrictions of this paragraph, shall retain for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942 remains in effect, accurate records for each year after 1942 and such records as he has for each of the years 1939, 1940 and 1941 of his aggregate dollar sales of all grey and finished piece goods; his total dollar sales of finished piece goods; and his total dollar sales of finished piece goods to persons other than cutters, manufacturers, retailers or war procurement agencies.

[Paragraph(s) added by Amendment 9, 7 F.R. 9823 and amended by Amendment 10, March 10, 1943]

(t) *"Designer-converters" of certain yarn dyed or stock dyed cotton finished piece goods.* (1) Any person selling yarn dyed or stock dyed carded cotton finished piece goods shall be regarded as a "designer-converter" as to those fabrics if he

(i) Is not the producer of the goods; and

(ii) Creates the style and supplies the producer with the design, pattern, construction and other specifications and is the person for whom the fabrics so styled are exclusively produced (devising slight or immaterial differences in

[20] "Total business" means the aggregate sales of all grey and finished piece goods.

color, pattern, construction or the like, from existing current styles, shall not be deemed style creation); and

(iii) Purchases such fabrics as are of first quality from the producer in full warp sets only; and

(iv) Customarily receives delivery of such fabrics from the producer in installments according to a contract providing a predetermined schedule of delivery.

(2) Any producer who himself styles and sells yarn dyed or stock dyed cotton finished piece goods of the type customarily styled and sold by designer-converters, shall also be regarded as a designer-converter as to those fabrics.

(3) All designer-converters may use the division factors provided in Tables III and IV of paragraph (g) of this section in computing their maximum prices for fabrics of the above type. All wholesalers or jobbers other than designer-converters, who sell such fabrics shall be subject to the provisions of § 1400.82 (i).

(4) *Registration of designer-converters.* (i) No designer-converter shall sell or deliver any fabrics of the above type under the provisions of this paragraph unless he shall have filed, with the Office of Price Administration, Washington, D. C., his name, address, and the certification referred to in subdivision (ii) or (iii) of this paragraph, and have received written acknowledgment that the certification is proper.

(ii) If the registrant is not the producer of the fabrics as to which he is a designer-converter, his registration shall be accompanied by the certifications of the producers from whom he purchases such fabrics. The certifications shall list each of the qualifications for designer-converters under the provisions of subparagraph (1) of this paragraph and the producers shall certify that the registrant meets each of those qualifications.

(iii) If the registrant is the producer of the fabrics as to which he is a designer-converter, his registration shall be accompanied by his certification to the effect that he meets the qualifications for designer-converters under the provisions of subparagraph (2) of this paragraph.

(u) *Specific prices for moleskins and suedes*—(1) *Specific prices for moleskins.* On and after March 16, 1943, notwithstanding any of the provisions of §§ 1400.77 and 1400.82 except paragraph (i), the maximum prices for the following fabrics shall be as set forth in Tables XI and XII of this paragraph:

TABLE XI—PLAIN MOLESKINS

Producer or converter	Grey goods construction	Finished cloth description	Finished cloth style	Color and color style designation	Dye	Cents per yard
Cone Export & Commission Company	40", 1.62 yards, 60 x 98	36", 9½ to 10 ounces	Greyfall	Drab 430, forest green 415, standard.	Sulphur	41.25
	40", 1.62 yards, 60 x 98	36", 9½ to 10 ounces	Greyfall	Navy 438, seal brown 439; black 441, high colors.	Sulphur	43.75
	40", 1.62 yards, 60 x 98	36", 9½ to 10 ounces	Greyfall	Dark brown 440, high color	Sulphur	44.75
	40", 1.42 yards, 60 x 116	36", 10¾ to 11¼ ounces	Grassmere	Drab 430, forest green 415, standard.	Sulphur	45.90
	40", 1.42 yards, 60 x 116	36", 10¾ to 11¼ ounces	Grassmere	Navy 438, seal brown 439; black 441, high colors.	Sulphur	48.40
	40", 1.42 yards, 60 x 116	36", 10¾ to 11¼ ounces	Grassmere	Dark brown 440, high color	Sulphur	49.40
Wellington Sears Co.	53", 1.32 yards, 96 x 64, sateen.	50", 11½ to 12 ounces, warp sateen.	s/606	Drab, brush brown, standard	Sulphur	46.00
	53", 1.32 yards, 96 x 64, sateen.	50", 11½ to 12 ounces, warp sateen.	s/606	Dark seal, special tan; black, standard.	Sulphur	47.00

TABLE XII—BLACK AND WHITE MOLESKINS

Producer or converter	Grey goods construction	Finished goods construction	Finished cloth style	Cents per yard regular finish	Cents per yard sanforized finish
Cone Export & Commission Company	32", 2.00 yards, 98 x 44, twill	30", 7½ to 7¾ ounces	30" Homeric	30.75	34.50
	39", 1.60 yards, 98 x 44, twill	36", 9 to 9¼ ounces	36" Homeric	37.20	
	40", 1.60 yards, 54 x 72, sateen	36", 9½ to 10 ounces	36" Hawthorne	41.37	
	40", 1.42 yards, 60 x 116 moleskin	36", 10¼ to 11 ounces	36" Hobart	48.00	
J. L. Stifel & Sons, Inc.	32", 2.00 yards, 98 x 44, twill	30", 7½ to 7¾ ounces	955/201 Whirlwind	30.75	34.50
	34", 1.90 yards, 54 x 72, sateen	30", 8 to 8½ ounces	360/101 Infallable	35.00	
	34½", 1.65 yards, 64 x 112, moleskin	30", 8¾ to 9¼ ounces	370/402 Ironclad	40.00	
Turner Halsey Co., Inc.	32", 2.00 yards, 98 x 44, twill	30", 7½ to 7¾ ounces	#400 Range	30.75	34.50
	34", 1.90 yards, 54 x 72, sateen	30", 8 to 8½ ounces	#900 Range	35.00	
	34½", 1.65 yards, 64 x 112, moleskin	30", 8¾ to 9¼ ounces	#700 Range	40.00	

(2) *Specific prices for suedes.* On and after March 16, 1943, notwithstanding any of the provisions of §§ 1400.77 and 1400.82 except paragraph (i), the maximum prices for the following fabrics when sold to clothing manufacturers for use as work clothing shall be as set forth in Table XIII of this paragraph:

TABLE XIII—SHIRTING SUEDES 36" FINISHED WIDTH

Producer or converter	Grey goods construction	Finished cloth style designation	Color and color style designation	Cents per yard
Cone Export & Commission Company	40", 3.00 yards, 42 x 44	Opossum suede	Grey # 456	23.00
			Leather # 432	23.00
			Navy # 458	24.50
Eagle & Phoenix Mills	40", 2.82 yards, 46 x 39	Star suede	Grey # 18	23.00
			Leather # 49	23.00
			Navy # 48	24.50
Pepperell Manufacturing Co.	40½", 3.00 yards, 42 x 44	Forrester suede	Grey # 101	23.00
			Leather # 201	23.00
			Navy # 309	24.50

(3) The maximum prices established by subparagraphs (1) and (2) shall apply to all contracts of sale entered into on or after March 16, 1943.

(4) For any moleskins or suedes which are not specifically set forth in subparagraph (1) of this paragraph, the maximum price shall be a price in line with [21]

[21] As used herein, the term "in line with" means (1) based upon and having a justifiable relationship to, and (2) appropriately increased or decreased to take account of differences in construction, finish, dye, color and such other material factors as, in sound cost determination, are considered to have a direct bearing on the cost of production of the respective fabrics.

the maximum price established in those subparagraphs for the most nearly related type, construction, finish, color and dye. The seller shall make no sale or delivery based upon such price until he has submitted to the Office of Price Administration, Washington, D. C., the proposed price, a complete description of the specifications as set forth in Tables XI, XII, or XIII, whichever is applicable, and the way in which the price was calculated, and until the proposed price has been approved.

(5) The maximum prices for moleskins and suedes included in this paragraph shall be subject to terms of three percent 10 days, f. o. b. mill.

(v) *Restrictions on sales of finished piece goods by certain cutters or manufacturers.* (1) After March 15, 1943, no cutter or manufacturer may sell more than 1000 yards of finished piece goods during any calendar month, except that this restriction shall not apply:

(i) To sales of finished piece goods to another cutter or manufacturer or to a retailer; or

(ii) To finished piece goods which the cutter or manufacturer has had in his possession for more than six months; or

(iii) Where a cutter or manufacturer who, as a separate and substantial portion of his business has regularly been engaged in wholesaling or jobbing, resells finished piece goods purchased exclusively for the purpose of resale and not for use in connection with his cutting or manufacturing operations.

The registration and record keeping requirements of this Amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

§ 1400.83 *Temporary Maximum Price Regulation No. 10—Finished Piece Goods Made of Cotton, Rayon and Mixtures Thereof.* On the effective date provided in § 1400.84, this Maximum Price Regulation No. 127 replaces and revokes Temporary Maximum Price Regulation No. 10 [22]—Finished Piece Goods Made of Cotton, Rayon and Mixtures thereof, issued by the Price Administrator. Until such date Temporary Maximum Price Regulation No. 10 remains in full force and effect as set forth in § 1400.12 thereof.

§ 1400.84 *Effective date.* This Maximum Price Regulation No. 127 (§§ 1400.71 to 1400.84, inclusive) shall become effective May 4, 1942.

[Issued April 27, 1942]

§ 1400.85 *Effective dates of amendments.*

Amendment Nos. and issue dates:	*Effective*
Amendment 1, 4-30-42	5- 4-42
Amendment 2, 5-30-42	6- 3-42
Amendment 3, 6-11-42	6-15-42
Amendment 4, 6-17-42	6-18-42
Amendment 5, 6-25-42	6-25-42
Amendment 6, 7-13-42	7-14-42
Amendment 7, 7-22-42	7-23-42
Amendment 8, 8-20-42	8-26-42
Amendment 9, 11-25-42	12-1-42
Amendment 10, 3-10-43	3-16-43

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3799; Filed, March 10, 1943; 2:58 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 54 to Supp. Reg. 1 [1] to GMPR [2]]

COPPER CLAD STEEL SCRAP

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Supplementary Regulation No. 1 is amended in the following respects:

1. Section 1499.26 (a) (40) is amended to read as follows:

(40) Copper clad steel scrap.

2. Section 1499.26 (d) (1) (xiii) is amended to read as follows:

(xiii) "Copper clad steel scrap" means all steel scrap clad or coated with copper or a copper base alloy, including gilding metal clad steel scrap, in which the cladding or coating amounts to 3% or more by weight.

This amendment shall become effective March 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March, 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3791; Filed, March 10, 1943; 3:00 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 14 to Revised Supp. Reg. 11 [3] to GMPR [2]]

EXCEPTIONS FOR CERTAIN TOLL SERVICES

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Subparagraph (110) of § 1499.46 (b) is added to read as set forth below:

§ 1499.46 *Exceptions for certain services.* * * *

(b) The provisions of the General Maximum Price Regulation shall not apply to the rates, fees, charges, or compensation for the following services:

* * * * *

(110) Toll bridges and toll roads, rates or tolls charged by.

(d) *Effective dates.* * * *

(15) Amendment No. 14 (§ 1499.46 (b) (110)) to Revised Supplementary Regulation No. 11 shall become effective March 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3798; Filed, March 10, 1943; 2:58 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 1 to Order 244 Under § 1499.3 (b) of GMPR]

QUAKER MAID CO., INC.

An opinion accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Section 1499.244 (c) is amended to read as set forth below:

§ 1499.244 *Authorization of maximum price for sale of a special blend of tea by The Quaker Maid Company, Inc., to the United States War Department.* * * *

(c) This Order No. 244 (§ 1499.244) shall become effective as of December 22, 1942.

This amendment shall become effective as of December 22, 1942.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3792; Filed, March 10, 1943; 2:57 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Correction of Order 295 Under § 1499.3 (b) of GMPR]

SCOVILL MANUFACTURING COMPANY

A statement of the considerations involved in the issuance of this correction has been issued simultaneously herewith and filed with the Division of the Federal Register.

Paragraph (b) of § 1499.1731 should read:

(b) Maximum prices, per thousand, f. o. b. factory: Zinc plated, $0.878; olive drab enamel finish, $1.95.

This correction shall become effective as of February 23, 1943.

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[22] 7 F.R. 2004.

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 3158, 3488, 3892, 4183, 4410, 4428, 4487, 4488, 4493, 4669, 5066, 5192, 5276, 5366, 5484, 5607, 5717, 5942, 6082, 6473, 6685, 7011, 7250, 7317, 7598, 7604, 7739, 8021, 8336, 8652, 8798, 8810, 8930, 8833, 9082, 9131, 9616, 9622, 9975, 9976, 10022, 10718, 10557, 11118; 8 F.R. 130, 265, 926, 1454, 1813, 2274.

[2] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317, 2029, 2110, 2346.

[3] 7 F.R. 6426, 6965, 7604, 7758, 8282, 8431, 8810, 9195, 9894; 8 F.R. 130, 149, 2215.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3797; Filed, March 10, 1943; 2:56 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 322 Under § 1499.3 (b) of GMPR]

PITNEY-BOWES POSTAGE METER CO.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1758 *Approval of maximum prices for sales of rebuilt postage meter and cigarette tax meter machines by the Pitney-Bowes Postage Meter Company.* (a) Pitney-Bowes Postage Meter Company, Stamford, Connecticut, may sell and deliver the following models of rebuilt mailing and cigarette tax meter machines at prices no higher than those set forth below. These prices are subject to all discounts, credit terms, practices relating to the payment of transportation costs, trade-in allowances, and any other customary discounts or allowances which were in effect during March, 1942, on the sale by the company of new mailing and cigarette tax meter machines.

Model:	*Maximum rebuilt price*
A	$830.00
RM	495.00
RS	300.00
JA	285.00
FS	210.00
RG	210.00
J	205.00
RH	115.00
H	45.00
HEK	390.00

(b) For the maximum prices set forth the company shall furnish the same guarantee furnished by the Pitney-Bowes Postage Meter Company upon the sale of its new machines.

(c) Prior to the delivery of any rebuilt mailing or cigarette tax meter machines, the Pitney-Bowes Postage Meter Company shall attach a tag or label with the spaces appropriately filled in as follows:

Rebuilt Model_____
Ceiling Price_____

(d) As used in this order, the term "rebuilt" means that the machine so designated has been repaired since its last sale as follows:

(1) All moving parts have been removed for inspection.

(2) Worn parts have been replaced with new parts.

(3) Bearings have been rebushed.

(4) Parts have been reassembled and adjusted to give new machine performance.

(e) This Order No. 322 may be revoked or amended by the Price Administrator at any time.

(f) This Order No. 322 shall become effective on the 11th day of March 1942.

(Pub. Laws 421 and 729, 77th Cong.: E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3795; filed March 10, 1943; 2:56 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 211 Under § 1499.18 (b) of GMPR]

ROCKWOOD AND CO.

Order No. 211 under § 1499.18 (b) of the General Maximum Price Regulation—Docket No. GF3-2702.

For the reasons set forth in an opinion issued simultaneously herewith, *It is hereby order:*

§ 1499.1811 *Adjustment of maximum prices for Chocolate Bits sold by Rockwood and Company.* (a) Rockwood and Company, Washington, Park and Waverly Avenues, Brooklyn, New York, may sell and deliver, and any person may buy and receive from Rockwood and Company the following commodities at prices not higher than those set forth below.

(1) "Chocolate Bits," packed one dozei 7 ounce packages to the box at $1.10 per box delivered.

(2) Rockwood and Company shall continue the customary quantity discounts, allowances or other price differentials existing in March, 1942.

(b) Wholesalers of "Chocolate Bits" are hereby authorized to increase their prices to correspond to the 5¢ per box increase granted to Rockwood and Company. In no event may a sale of "Chocolate Bits" be made at retail at a price higher than that determined for the retail seller under paragraph (a) of section 2 of the General Maximum Price Regulation, or as adjusted under any other regulation issued by The Office of Price Administration.

(c) At the time of the first delivery of "Chocolate Bits" following the effective date of this order, Rockwood and Company shall supply to any retailer or wholesaler taking such delivery a written notice and shall also include such written notice in each box of "Chocolate Bits" packages. If such notice is enclosed within the shipping package, a legend shall be attached outside the package to read "Ceiling Price Notice Enclosed." The written notice shall read as follows:

A new delivered maximum price of $1.10 a box of twelve packages of "Chocolate Bits" has been authorized for us by the Office of Price Administration. This increase was granted because our March, 1942 price was abnormally low in relation to the prices charged by our competitors. Our new price is subject to all allowances, discounts and trade practices which we had in effect in March, 1942 with respect to "Chocolate Bits." Wholesalers may add 5¢ to their March, 1942 prices. Retailers are in no event to increase their prices above March, 1942 ceilings.

(d) All prayers of the petition not granted herein are denied.

(e) This Order No. 211 may be revoked or amended by the Price Administrator at any time.

(f) This Order No. 211 shall become effective March 11, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3796; Filed, March 10, 1943; 2:56 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 212 Under § 1499.18 (b) of GMPR]

SCHROEDER BROS., INC.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1812 *Denial of application of Schroeder Bros. Inc., 10 Beach Street, New York, New York for adjustment of maximum prices for imported Palomino Sherry.* (a) The application of Schroeder Bros. Inc., 10 Beach Street, New York, New York filed July 29, 1942 and assigned Docket No. GF3-964, requesting permission to increase maximum prices for imported Palomino Sherry sold by it is denied.

This Order No. 212 shall become effective March 11, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3793; Filed, March 10, 1943; 2:57 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 213 Under § 1499.18 (b) of GMPR]

BARDWELL-ROBINSON CO.

Order No. 213 under § 1499.18 (b) of the General Maximum Price Regulation—Docket No. GF3-173.

Upon consideration of the application, and for reasons set forth in an opinion issued simultaneously herewith, pursuant to Revised Procedural Regulation No. 1, *It is ordered:*

§ 1499.1813 *Adjustment of maximum prices for sales of sash, doors, and general millwork by Bardwell-Robinson Company, a corporation, at its Fargo, North Dakota warehouse.* (a) The Bardwell-Robinson Company, a corporation, with principal offices at Minneapolis, Minnesota, may sell and deliver from its warehouse at Fargo, North Dakota, such sash, doors, and items of general millwork as are described in its catalogue and price list No. 40, of July 1940, at prices not in excess of those determined by application of its published discount sheet of April 25, 1942 to the aforementioned price list.

(b) All prayers of the application not herein granted are denied.

(c) This Order No. 213 may be revoked or amended by the Administrator at any time.

(d) This Order No. 213 (§ 1499.1813) is hereby incorporated as a section of Supplementary Regulation No. 14.

(e) This Order No. 213 (§ 1499.1813) shall be effective March 11, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3794; Filed, March 10, 1943; 2:57 p. m.]

PART 1351—FOODS AND FOOD PRODUCTS

[MPR 280,[1] Amendment 16]

MAXIMUM PRICES FOR SPECIFIC FOOD PRODUCTS

A statement of the considerations involved in the issuance of this Amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation 280 is amended in the following respects:

1. Section 1351.803 is amended by adding paragraph (h) to read as follows:

§ 1351.803 *Maximum prices.* * * *

(h) The provisions of this Maximum Price Regulation No. 280 do not apply to fluid milk sold at wholesale other than in glass or paper containers to stores, hotels, restaurants, and institutions in the "New York Metropolitan Area." Maximum prices for such sales are set in subdivision (ii) of § 1499.73 (a) (1), Supplementary Regulation 14 to the General Maximum Price Regulation. (Amendment No. 134 to Supplementary Regulation 14.)

2. Section 1351.808 is amended by adding a new paragraph (l) to read as follows:

§ 1351.808 *Exempt sales.* This maximum price regulation shall not apply to the following:

* * * * *

(l) Fluid milk sold at wholesale in bulk (other than in glass or paper containers) to stores, hotels, restaurants, and institutions, in the New York Metropolitan Area. Maximum prices for such sales are set in subdivision (ii) of § 1499.73 (a) (1), Supplementary Regulation 14 to the General Maximum Price Regulation. (Amendment No. 134 to Supplementary Regulation 14.)

3. Section 1351.816 (a) is amended by adding a new subparagraph (9), to read as follows:

§ 1351.816 *Definitions.* (a) When used in this Maximum Price Regulation 280, the term:

* * * * *

(9) "New York Metropolitan Area" means the territory included in the City of New York, Counties of Nassau, Suffolk (except Fisher's Island) and Westchester, all in the State of New York.

This amendment shall become effective March 11, 1943 and terminate on April 1, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3810; Filed, March 10, 1943; 4:55 p. m.]

PART 1429—POULTRY AND EGGS

[MPR 333,[1] Amendment 2]

EGGS AND EGG PRODUCTS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation 333 is amended in the following respects:

1. Section 1429.54 (c) is amended to read as follows:

(c) Except as provided in §§ 1429.69 (b) (3), 1429.69 (c) (2), 1429.71 (b), and 1429.74 (e) hereof, the maximum prices established by this regulation are maximum prices per dozen eggs or per pound of egg products delivered to the buyer as herein provided and the provisions of this regulation shall not be evaded by selling such eggs or egg products at a price f. o. b. the seller's shipping point.

2. A new § 1429.69 (b) (3) is added to read as follows:

(3) Maximum prices of shell eggs of procurement grades sold to the United States or any agency thereof f. o. b. the seller's shipping point in "Area 1" shall be the maximum prices per dozen for eggs of the particular grade, size and other identification set forth in Table D of this section for the week of shipment plus the "transportation factor" from Chicago, Illinois to the point of shipment.

3. Section 1429.69 (c) (1) is amended to read as follows:

(1) From the maximum price in the basing point city reflecting the highest price of shell eggs of the procurement grade sold for the week in which they are to be delivered, the "transportation factor" for such grade of eggs from the point of delivery to the basing point city shall be subtracted. The resulting figure is the maximum price of such eggs delivered at their destination.

4. A new § 1429.69 (c) (2) is added to read as follows:

(2) Maximum prices of shell eggs of procurement grades sold to the United States or any agency thereof f. o. b. the seller's shipping point in "Area 2" shall be the maximum prices per dozen for eggs of the particular grade, size and other identification in the basing point city reflecting the highest price for the week in which they are to be shipped, selected from Table C of this section less the "transportation factor" from the basing point city to the point of shipment.

5. Table C of § 1429.69 (d) is amended insofar as it relates to maximum prices in basing point cities for the month of March, 1943, to read as follows:

MARCH

Grade	1	8	15	22	29
I	43	43	43	43	43
II	42.5	42.5	42.5	42.5	42.5
III	42	42	42	42	42
IV	41.5	41.5	41.5	41.5	41.5

6. Table D of § 1429.69 (e) is amended insofar as it relates to maximum prices in Chicago for the month of March 1943 to read as follows:

MARCH

Grade	1	8	15	22	29
I	41.4	41.4	41.4	41.4	41.4
II	40.9	40.9	40.9	40.9	40.9
III	40.4	40.4	40.4	40.4	40.4
IV	39.9	39.9	39.9	39.9	39.9

7. A new § 1429.69 (e) (2) is added to read as follows:

(2) Shell eggs of procurement grades when treated with a mineral oil for purposes of preservation may sell at 1¢ above the price for the particular grade, size and other indentification determined as provided herein.

8. A new § 1429.78 is added to read as follows:

§ 1429.78 *Period this amendment shall continue in effect.* Sections 1429.54 (c), 1429.69 (b) (3), 1429.69 (c) (1), 1429.69 (c) (2), 1429.69 (e) (2), and this section shall continue in force until altered or revoked by further order of the Administrator. The remaining provisions of this amendment shall continue in effect until 12 o'clock midnight on March 23, 1943, at which time the original maximum prices for the month of March set forth in Table C of § 1429.69 (d) and Table D of § 1429.29 (e) of Maximum Price Regulation No. 333 as issued on February 25, 1943, shall be reinstated automatically and without further order of the Administrator and such remaining provisions shall cease and determine.

This amendment shall be effective as of March 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

Approved:
PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 43-3811; Filed, March 10, 1943; 4:56 p. m.]

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 10144, 10337, 10475, 10585, 10788, 10995; 8 F.R. 158, 876, 877, 1120, 1468, 1741, 1885, 2024, 2038.

[1] 8 F.R. 2488.

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[MPR 300, Amendment 3]

MAXIMUM MANUFACTURERS PRICES FOR RUBBER DRUG SUNDRIES

Correction

In footnote 5 of the document appearing on page 2669 of the issue for Wednesday, March 3, 1943, the reference to § 1315.1703 should be to § 1315.1763.

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[Ration Order 1A, Amendment 13]

Correction

In § 1315.804 (c) (3) of the document appearing on page 2670 of the issue for Wednesday, March 3, 1943, the third entry under the column headed "Dealer or manufacturer may replenish with—" should read "Any size Grade III tire."

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[Ration Order 12, Amendment 22]

COFFEE RATIONING REGULATIONS

Correction

In § 1407.1000 of the document appearing on page 2679 of the issue for Wednesday, March 3, 1943, the second paragraph (c) should be designated (d) and should read:

"(d) A Class A industrial user, who is not also an institutional user, * * *"

TITLE 46—SHIPPING

Chapter I—Bureau of Customs

Subchapter A—Documentation, Entrance and Clearance of Vessels, Etc.

[T.D. 50828]

PART 1—DOCUMENTATION OF VESSELS

REVOCATION OF PETERSBURG, ALASKA, AS PORT OF DOCUMENTATION

Section 1.1, Part I, Title 46, Code of Federal Regulations,[1] is hereby amended in the following respect: The designation of Petersburg, Alaska, as a port of documentation is revoked effective March 15, 1943, and the word "Petersburg" as it appears under "Alaska (31)" is deleted from the section. The port of Wrangell, Alaska, will thereafter be the home port of all vessels whose home port is Petersburg, Alaska, on the effective date of the revocation of the designation of that port as a port of documentation.

If the owner of any vessel desires to designate a port other than Wrangell as the home port of that vessel, the approval of the Commissioner of Customs shall be obtained.

[1] 7 F.R. 9901.

(R.S. 161, secs. 2, 3, 23, Stat. 118, 119; 5 U.S.C. 22, 46 U.S.C. 2, 3. E.O. 9083; 7 F.R. 1609)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: March 10, 1943.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 43-3809; Filed, March 10, 1943; 4:12 p. m.]

TITLE 49—TRANSPORTATION

Chapter II—Office of Defense Transportation

[General Order ODT 34]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART W—CERTIFICATES OF WAR NECESSITY FOR COMMERCIAL MOTOR VEHICLES IN PUERTO RICO

Pursuant to Executive Orders 8989, 9156, 9214 and 9294, and in order to conserve and providently utilize vital transportation equipment, material and supplies; and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

Sec.

501.280 Definitions.
501.281 Applicability.
501.282 Certificate of war necessity required.
501.283 Application for certificate.
501.284 Issuance of certificate of war necessity.
501.285 Contents and conditions of certificate.
501.286 Certificate of war necessity not transferable.
501.287 Motor fuel and commercial motor vehicle parts, tires, or tubes.
501.288 Records and reports.
501.289 Enforcement officers authorized to report violations.
501.290 Suspension or revocation of certificates.
501.291 Exemptions.
501.292 Suspension of provisions.
501.293 Communications.
501.294 Effective date.

AUTHORITY: §§ 501.280 to 501.294, inclusive, issued under E.O. 8989, 9156, 9214, and 9294; 6 F.R. 6725; 7 F.R. 3349, 6097; 8 F.R. 221.

§ 501.280 *Definitions.* As used in this order (§§ 501.280 to 501.294, inclusive), or in any order, permit or regulation issued hereunder, the term:

(a) "Person" means any individual, partnership, corporation, association, joint-stock company, business trust, or other organized group of persons, and includes any agency of the United States or of any other government, the Insular Government of Puerto Rico or any political subdivision or agency thereof, or any trustee, receiver, assignee or personal representative;

(b) "Commercial motor vehicle" means (1) (i) a straight truck, (ii) a combination truck-tractor and semi-trailer, (iii) a full trailer, (iv) any combination thereof, or (v) any other rubber-tired vehicle, excluding motorcycles, propelled or drawn by mechanical power and built (or rebuilt) or used primarily for the purpose of transporting property, and (2) any bus, taxicab, jitney, or other rubber-tired vehicle, excluding motorcycles, propelled or drawn by mechanical power, used or licensed for use in the transportation of persons upon the highways for hire, or available for public rental, including ambulances and hearses;

(c) "Property" means anything, except persons, capable of being transported by a commercial motor vehicle;

(d) "Fleet" means two or more commercial motor vehicles owned or operated by one person.

§ 501.281 *Applicability.* The provisions of this order shall be applicable only within the Island of Puerto Rico.

§ 501.282 *Certificate of War Necessity required.* On and after the effective date hereof, no person shall operate any commercial motor vehicle within the Island of Puerto Rico unless there is in force with respect to such commercial motor vehicle a Certificate of War Necessity issued by the Office of Defense Transportation governing such operation.

§ 501.283 *Application for certificate.* Application for a Certificate of War Necessity shall be made in writing to the local office of the Office of Defense Transportation for the area in which the home office or principal place of business of applicant is located, unless the applicant is directed to make application to some other office of the Office of Defense Transportation. Any such application shall be made on forms provided by the Office of Defense Transportation, and shall contain such information as the Office of Defense Transportation shall require.

§ 501.284 *Issuance of Certificate of War Necessity.* (a) A Certificate of War Necessity will be issued by the Office of Defense Transportation to any qualified applicant therefor.

(b) Such certificate, when issued in respect of a single commercial motor vehicle, shall at all times be carried on such vehicle. When such certificate is issued in respect of a fleet, a fleet unit certificate shall at all times be carried on each commercial motor vehicle covered by such fleet certificate.

§ 501.285 *Contents and conditions of certificate.* Each Certificate of War Necessity issued under this order shall specify the name and address of the person to whom issued, and the vehicle or vehicles covered thereby. When deemed necessary by the Office of Defense Transportation, such certificate shall also specify:

(a) Limitations of mileage or of motor fuel, or requirements as to loads, or any one or more of such limitations or requirements, in order that such operations (1) shall be confined to those that are necessary to the war effort or to the maintenance of essential civilian economy, (2) shall be so conducted as to assure maximum utilization in such service of the commercial motor vehicle or vehicles of the applicant, and (3) shall conserve and providently utilize

rubber or rubber substitutes and other critical materials used in the manufacture, maintenance and operation of such vehicles;

(b) The purposes for which and the conditions under which such vehicle or vehicles may be operated;

(c) Such other terms or conditions as the Office of Defense Transportation may from time to time specify.

§ 501.286 *Certificate of War Necessity not transferable.* No Certificate of War Necessity shall be transferable. In the event of the sale or other transfer of a commercial motor vehicle, or a substantial change in the character of its use or the conditions under which it is used, the purchaser or transferee or owner thereof shall forthwith make application to the Regional Director, Office of Defense Transportation, San Juan, Puerto Rico, for a new certificate, upon the issuance of which the previously issued certificate appertaining to such vehicle shall be surrendered for cancellation.

§ 501.287 *Motor fuel and commercial motor vehicle parts, tires, or tubes.* On and after the effective date hereof, no person shall:

(a) Transfer any motor fuel to, or transfer, mount, or install any part, tire, or tube, in or upon any commercial motor vehicle, unless the operator thereof, at the time of such transfer or installation, shall present to such person for inspection a valid Certificate of War Necessity pertaining to such vehicle, issued by the Office of Defense Transportation.

(b) Transfer or deliver any motor fuel for the use of, or transfer, mount, install, or deliver any part, tire, or tube for the use of, any commercial motor vehicle, unless the operator of such commercial motor vehicle shall, at the time thereof, sign a written receipt, in duplicate, for such motor fuel, part, tire, or tube, and endorse on each copy of such receipt the number of the Certificate of War Necessity pertaining to the commercial vehicle or vehicles in or upon which such motor fuel, part, tire, or tube is to be used: *Provided,* That when existing conditions render it impracticable to issue or sign such receipt, such operator shall furnish to the person making the transfer, delivery or installation, his name, address and the number of the Certificate of War Necessity pertaining to such motor vehicle, and such person shall endorse the operator's name, address and number upon the invoice covering such transaction. In the event such transfer, delivery, or installation is for the use of a fleet of commercial motor vehicles, the number of the Certificate of War Necessity pertaining to such fleet shall be endorsed on each such written receipt or invoice. The original receipt or the first copy of the invoice shall be retained by the person making the transfer, delivery, or installation, and a copy of the receipt or the original of the invoice retained by the operator of such commercial motor vehicle. Such receipts and invoices shall be available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

(c) The provisions of this § 501.287 shall not apply to the sale, transfer, or delivery of motor fuel, parts, tires, or tubes, to any person for the purpose of resale.

§ 501.288 *Records and reports.* Any person operating a commercial motor vehicle in respect of which a Certificate of War Necessity has been issued shall prepare and permanently maintain such records, and make such reports, and in such manner and form, as the Office of Defense Transportation may hereafter prescribe, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942. All such records shall be available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

§ 501.289 *Enforcement officers authorized to report violations.* Any enforcement officer of the Insular Government of Puerto Rico, or of any subdivision thereof, who, on or after the effective date hereof, finds any commercial motor vehicle being operated which at such time does not have in such vehicle, available for inspection and examination, a valid Certificate of War Necessity issued under this order, or which is in any other way being operated in violation of any order of the Office of Defense Transportation, or any term or condition of a Certificate of War Necessity governing its operations, is authorized to make a report thereof to the Regional Director, Office of Defense Transportation, San Juan, Puerto Rico, stating the name of the person operating such vehicle, the owner or lessee thereof, and such other information as the Office of Defense Transportation may specify. Such reports may be made on forms prescribed by the Office of Defense Transportation.

§ 501.290 *Suspension or revocation of certificates.* Each Certificate of War Necessity issued under this order shall be effective from the date specified therein and shall remain in effect according to its terms until amended, modified, recalled, suspended, cancelled, or revoked in whole or in part by the Office of Defense Transportation for willful violation of any order of the Office of Defense Transportation or for other good cause.

§ 501.291 *Exemptions.* (a) The provisions of this order shall not apply to or include the following:

(1) A commercial motor vehicle operated by or under the direction of the armed forces of the United States, the United States Maritime Commission, the War Shipping Administration, or the armed forces of Puerto Rico organized pursuant to section 61 of the National Defense Act, as amended;

(2) A commercial motor vehicle operated by a dealer exclusively for the purpose of selling such vehicle;

(3) A motor vehicle having a capacity of not to exceed 7 passengers operated by a person between his or her home and place of work and used in transporting other persons between their homes and their places of work, if such motor vehicle is not used for any other purpose for compensation.

(b) The provisions of §§ 501.282 to 501.290, inclusive, shall not apply to or include the following:

(1) Industrial motor vehicles equipped with solid rubber tires or pneumatic tires, not designed for use on the highways, and used within industrial plants, warehouses, docks and terminals for intraplant movement of property; motor graders, scrapers, scoops, bulldozers, and other similar vehicles equipped with solid rubber tires or pneumatic tires and used in construction or maintenance work; planters, broadcast seeders, fertilizer distributors, sprayers, and other similar machines equipped with solid rubber tires or pneumatic tires and used in farming operations; farm trailers and semi-trailers, and other trailers and semi-trailers equipped with solid rubber tires or pneumatic tires, regularly drawn or powered by private passenger automobiles;

(2) Driveaway commercial motor vehicles operated by a manufacturer or dealer, or by a carrier upon behalf of a manufacturer or dealer, exclusively for the purpose of sale by such manufacturer or dealer; commercial motor vehicles operated in the course of movement from a place of storage to another place of storage, or to a place of storage upon repossession or upon seizure by competent governmental authority; commercial motor vehicles used by the United States or any agency thereof, or the Insular Government of Puerto Rico or any agency or political subdivision thereof, in testing tires, fuels, or equipment; commercial motor vehicles used exclusively for the experimental testing of synthetic or natural rubber tires by manufacturers or producers of such tires; and commercial motor vehicles operated in the course of manufacture or assembly for the purpose of testing such vehicles or in the course of movement within or between plants engaged in their manufacture or assembly.

§ 501.292 *Suspension of provisions.* The provisions of this order or any part thereof may be suspended, from time to time, by order of the Office of Defense Transportation.

§ 501.293 *Communications.* Communications concerning this order should refer to "General Order ODT 34" and should be addressed to the Regional Director, Office of Defense Transportation, San Juan, Puerto Rico.

§ 501.294 *Effective date.* This General Order ODT 34 shall become effective April 1, 1943: *Provided, however,* That the Regional Director for Puerto Rico shall, if found by him to be necessary or desirable in the public interest, by general or special order, postpone the effective date of this order to such time after April 1, 1943, as he shall prescribe, but not beyond June 1, 1943.

Issued at Washington, D. C., this 11th day of March 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-3815; Filed, March 10, 1943; 10:39 a. m.]

[Suspension Order ODT 9–1]

PART 522—DIRECTION OF TRAFFIC MOVEMENT EXCEPTIONS, SUSPENSIONS AND PERMITS

SUBPART B—MOVEMENT OF COAL ON THE GREAT LAKES

Pursuant to Executive Order 8989, issued December 18, 1941, *It is hereby ordered,* That:

§ 522.603 *Suspension of provisions of General Order ODT 9, and General Permit ODT 9–1.* All provisions of General Order ODT 9,[1] and General Permit ODT 9–1,[2] shall be and the same are hereby suspended until May 1, 1943.

(E.O. 8989, 6 F.R. 6725)

Issued at Washington, D. C., this 11th day of March 1943.

JOSEPH B. EASTMAN,
Director of the Office of Defense Transportation.

[F. R. Doc. 43–3816; Filed, March 11, 1943; 10:39 a. m.]

[Suspension Order ODT 25–3]

PART 522—DIRECTION OF TRAFFIC MOVEMENT EXCEPTIONS, SUSPENSIONS AND PERMITS

SUBPART H—OPERATION OF VESSELS ON THE GREAT LAKES

Pursuant to § 502.81 of General Order ODT 25, *It is hereby ordered,* That:

§ 522.780 *Suspension of provisions of §§ 502.76 and 502.77 of General Order ODT 25.* All provisions of §§ 502.76 and 502.77 of General Order ODT 25, shall be and the same are hereby suspended until further notice.

(E.O. 8989, 6 F.R. 6725; Gen. Order ODT 25, 7 F.R. 7981)

Issued at Washington, D. C., this 11th day of March 1943.

JOSEPH B. EASTMAN,
Director of the Office of Defense Transportation.

[F. R. Doc. 43–3817; Filed, March 11, 1943; 10:39 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket Nos. A–1846 and A–1846, Part II]

DISTRICT BOARD 18

MEMORANDUM OPINION, ETC.

In the matter of the petition of District Board No. 18 for the establishment of certain price classifications and minimum prices for coals produced in Subdistricts 2, 3, 4, 5, 6, 7 and 8 in District No. 18.

In the matter of the petition of District Board No. 18 for the establishment of certain price classifications and minimum prices for coals produced in Subdistrict 1 in District No. 18.

Memorandum opinion and order severing Docket No. A–1846, Part II, from Docket No. A–1846, and notice of and order for hearing in Docket No. A–1846, Part II.

The original petition in the above-entitled matter, filed with this Division pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, on January 23, 1943, and amended on February 24, 1943, requests the establishment of certain price classifications and minimum prices for coals produced in Subdistricts 1, 2, 3, 4, 5, 6, 7, and 8 in District No. 18 for shipment by rail into all market areas other than those specifically set forth in the Schedule of Effective Minimum Prices for District No. 18 for All Shipments.

As indicated in a separate order issued in Docket No. A–1846, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner except as to the establishment of the price classifications and minimum prices proposed in the original petition for the coals produced in Subdistrict 1, in District No. 18.

It appears that the price classifications and minimum prices proposed by petitioner in this matter for coals produced in Subdistrict 1 are lower than the effective minimum prices for coals in the corresponding size groups for shipment by rail into Market Area 236, the home market area for Subdistrict 1 coals. No sufficient reason having been advanced by petitioner to justify this lower level of prices for Subdistrict 1 coals, it appears that no price classifications or minimum prices should be established for such coals, for shipment by rail into all market areas to which those coals have not heretofore been priced, without a hearing.

Now, therefore, it is ordered, That the portion of Docket No. A–1846 relating to the coals produced and shipped from mines in Subdistrict 1 in District No. 18 be, and it hereby is, severed from the remainder of Docket No. A–1846 and designated as Docket No. A–1846, Part II.

It is further ordered, That a hearing in Docket No. A–1846, Part II, under the applicable provisions of said Act and the rules and regulations of the Division, be held on April 2, 1943, at 10 a. m. in the forenoon of that day at a hearing room of the Bituminous Coal Division, Washington, D. C.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officer or officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, to continue said hearing from time to time and to prepare and submit proposed findings of fact and proposed conclusions of law and a recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party of this proceeding may file a petition of intervention in accordance with the Rules and Regulations of the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 30, 1943.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto which may be raised by amendment to the petition, petitions of intervention or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of the original petition.

The matter concerned herewith is in regard to the petition of District Board No. 18 for the establishment of the following price classifications and minimum prices in cents per net ton for the coals, produced in Subdistrict 1 in District No. 18, for shipment by rail into all market areas to which such coals have not heretofore been priced:

SUBDISTRICT NO. 1

	Size groups									
	1	2	4	7	8	9	11	12	13	15
Minimum prices...	410	385	360	330	315	245	195	175	135	330

Dated: March 9, 1943.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 43–3782; Filed, March 10, 1943; 12:21 p. m.]

[Docket No. B–277]

MARKET STREET COAL COMPANY

ORDER POSTPONING HEARING

In the matter of J. H. Cox and R. L. Stulce, individually and as partners, doing business under the name and style of Market Street Coal Company, Code Member.

The above-entitled matter having been heretofore scheduled for hearing on March 19, 1943, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Courthouse, Chattanooga, Tennessee; and

The Director deeming it advisable that said hearing should be postponed;

Now, therefore, it is ordered, That the hearing in the above-entitled matter shall be postponed to March 20, 1943, at 9 a. m., at a hearing room of the Bituminous Coal Division at Hamilton County Courthouse, Chattanooga, Tennessee; and

It is further ordered, That the Notice of and Order for Hearing issued June

[1] 7 F.R. 3905.
[2] 7 F.R. 3906.

25, 1942, shall, in all other respects, remain in full force and effect.

Dated: March 9, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-3783; Filed, March 10, 1943; 12:21 p. m.]

[Docket No. B-219]

FREEBROOK CORPORATION

ORDER RESTORING CODE MEMBERSHIP

A written complaint dated February 4, 1942, having been filed on February 10, 1942, by the Bituminous Coal Producers Board for District No. 1, complainant, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, alleging wilful violation by Freebrook Corporation, a code member, Kittanning, Pennsylvania, of the Bituminous Coal Act and the rules and regulations promulgated thereunder; and

An Order having been issued herein on July 31, 1942, revoking and cancelling the code membership of said Freebrook Corporation in the Bituminous Coal Code, and providing, pursuant to section 5 (c) of the Bituminous Coal Act, for the payment to the United States of a tax in the amount of $8,500.08 as a condition precedent to the restoration of Freebrook Corporation to membership in the Code; and

An application dated August 14, 1942, having been filed with the Division by Freebrook Corporation for restoration to membership in the Code, effective as of the effective date of said revocation, supported by an agreement dated August 13, 1942, between said code member and the Collector of Internal Revenue, providing for payment of said tax in installments; and

Said application dated August 14, 1942, having been granted by order of the Division issued August 15, 1942, conditionally restoring the membership of said Freebrook Corporation in the Code effective as of the effective date of said order of revocation, upon the following terms and conditions:

In the event of default by Freebrook Corporation in making any installment payment as provided in said agreement made August 13, 1942, between said Freebrook Corporation and Walter L. Miller, Collector of Internal Revenue, such conditional restoration of code membership shall become wholly ineffective as of August 16, 1942, the entire balance of said tax then owing shall become due and payable and that all coal sold or otherwise disposed of by said Freebrook Corporation on and after August 16, 1942, shall be subject to 19½% tax provided by section 3520 (b) (1) of the Internal Revenue Code; and

Said order conditionally restoring code membership, dated August 15, 1942, of Freebrook Corporation, having provided for restoration of said Freebrook Corporation to full and unconditional membership in the Code upon payment of said tax in full in accordance with the terms of said agreement; and

The Bureau of Internal Revenue having filed a statement with the Bituminous Coal Division on February 25, 1943, showing that the final installment of said tax was paid on February 15, 1943.

Now, therefore, it is ordered, That the code membership of Freebrook Corporation be and the same is hereby fully and unconditionally restored, effective as of the effective date of said revocation of code membership.

Dated: March 9, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-3784; Filed, March 10, 1943; 12:21 p. m.]

[Order No. 346]

DISTRICT BOARD NO. 6

DESIGNATION OF EMPLOYEE MEMBER

An order amending Order No. 327, as amended, with respect to the designation of the employee member of District Board No. 6.

The United Mine Workers of America, pursuant to Order No. 327 of the Bituminous Coal Division, Department of the Interior, having selected Adolph Pacifico for appointment as a member of District Board No. 6, vice George W. Savage, deceased, *It is ordered:*

1. That paragraph 2 of said Order No. 327 be and the same is hereby amended by substituting, opposite the words "District 6—Panhandle:" the name of Adolph Pacifico, Miners' Temple, Bellaire, Ohio, vice, George W. Savage, 85 East Gay Street, Columbus, Ohio.

2. That, except as modified by Order No. 331 and by this Order, Order No. 327 shall remain in full force and effect.

Dated: March 10, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-3830; Filed, March 11, 1943; 11:09 a. m.]

[Docket No. B-360]

PROVIDENCE COAL MINING COMPANY

ORDER POSTPONING HEARING PENDING FURTHER ORDER OF THE DIRECTOR

A hearing in the above entitled matter having been scheduled for hearing on March 11, 1943, at a hearing room of the Bituminous Coal Division, Circuit Court, Madisonville, Kentucky; and

The Director deeming it advisable that said hearing should be postponed;

Now therefore, It is ordered, That the hearing in the above entitled matter be and the same hereby is postponed to a time and place to be hereafter designated by the Director.

Dated: March 10, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-3829; Filed, March 11, 1943; 11:09 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

EMPLOYMENT OF LEARNERS CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that special certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the regulations issued thereunder (August 16, 1940, 5 F.R. 2862, and as amended June 25, 1942, 7 F.R. 4723), and the determination and order or regulations listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-Lined Garments Divisions of the Apparel Industry, Learner Regulations, July 20, 1942 (7 F.R. 4724).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen. Learner Regulations, October 30, 1940 (5 F.R. 4302).

Notice of Amended Order for the Employment of Learners in the Cigar Manufacturing Industry, July 20, 1941 (6 F.R. 3753).

The employment of learners under these certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the determination and order or regulation for the industry designated above and indicated opposite the employer's name. These certificates become effective March 11, 1943. The certificates may be cancelled in the manner provided in the regulation and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

Apparel Industry

McLoughlin Manufacturing Company, Chili Avenue, Peru, Indiana; Blouses and men's underwear; 5 percent (T); March 11, 1944.

Single pants, shirts and allied garments, women's apparel, sportswear, rainwear, robes, and leather and sheeplined garments divisions of the apparel industry.

Davenshire, Incorporated, 825 W. 4th Street, Davenport, Iowa; Trousers; 10 percent (T); March 11, 1944.

Gate City Manufacturing Corporation, Gate City, Virginia; Shirts; 50 learners (E); April 1, 1943. (This certificate replaces the one issued to J. D. Williams, Receiver, Oakdale Manufacturing Company, October 1, 1942 to April 1, 1943)

Nathan N. Gorchov Company, Incorporated, 146 N. 13th Street, Philadelphia, Pennsylvania; Marine cotton jackets; 10 percent (T); March 11, 1944.

Madewell Manufacturing Company, 831 Cherry Street, Philadelphia, Pennsylvania; Men's sport shirts and sport jackets; 5 learners (T); March 11, 1944.

Merit Shirt Corporation, Smith and Herbert Streets, Perth Amboy, New Jersey; Men's cotton shirts, commercial and officer's shirts; 7 learners (T); March 11, 1944.

Swanton Manufacturing Company, Incorporated, Swanton, Vermont; Housedresses; 18 learners (E); September 11, 1943.

H. W. Zweig Manufacturing Company, 1104 Commerce Street, Dallas, Texas; Men's khaki cotton pants, cotton shirts; 10 percent (T); March 11, 1944.

Glove Industry

Alexette Glove Corporation, 70–82 Bleecker Street, Gloversville, New York; Leather dress gloves; 10 learners (E); September 11, 1943.

Hosiery Industry

Melrose Hosiery Mills, Incorporated, English Street, High Point, North Carolina; Full-fashioned hosiery; 5 percent (T); March 11, 1944.

Textile Industry

The Berryton Mills, Berryton, Georgia; Cotton yarn; 3 percent (T); March 11, 1944.

South Boston Weaving Corporation, Noblin & Carrington Streets, South Boston, Virginia; Cotton and rayon; March 11, 1944.

Signed at New York, N. Y., this 9th day of March 1943.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 43-3837; Filed, March 11, 1943; 12:00 p. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4794]

PHILIP MORRIS & COMPANY, LTD., INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of March, A. D. 1943.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41),

It is ordered, That Charles A. Vilas, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, April 6, 1943, at ten o'clock in the forenoon of that day (eastern standard time, in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F.R. Doc. 43-3818; Filed, March 11, 1943; 10:57 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 5 Under MPR 74, As Amended]

VALLEY CHEMICAL COMPANY

APPROVAL OF MAXIMUM PRICE

Order No. 5 under § 1363.62 (a) (5) (ii) of Maximum Price Regulation No. 74, as Amended—Animal Product Feedingstuffs.

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the provisions of § 1363.62 (a) (5) (ii) of Maximum Price Regulation No. 74, as amended, *It is ordered:*

(a) *Approval of maximum price for sales of meat scaps by Valley Chemical Company with a guaranteed minimum protein content of 52 per cent.* Valley Chemical Company, Mount Pleasant, Michigan, may sell and deliver and any person may buy and receive from Valley Chemical Company, meat scraps with a guaranteed minimum protein content of 52 per cent at a maximum price of $70.42 per ton, f. o. b. conveyance at production plant of Valley Chemical Company, located in Zone 4.

(b) *Price adjustments where actual analysis differs from guaranteed minimum protein content.* In any sale made pursuant to the provisions of this order if the actual analysis differs from the guaranteed minimum percentage of protein permitted by this order, then:

(1) If above the guaranteed minimum percentage of protein, no increase in maximum prices is permitted.

(2) If one per cent or less below the guaranteed minimum percentage of protein, deduct $1.50 per ton from the selling price.

(3) If more than one per cent below the guaranteed minimum percentage of protein deduct from the selling price, $1.50 per ton for the first per cent and $3.00 per ton for each additional per cent or fraction thereof.

(c) *Notification of maximum prices.* Valley Chemical Company shall provide the following notice of the maximum price established by this order with the first delivery to each buyer of meat scraps having a guaranteed minimum protein content of 52 per cent:

The Office of Price Administration has permitted us to sell meat scraps with a guaranteed minimum protein content of 52 per cent at a maximum price of $70.42 per ton, f. o. b. our production plant, which is in line with the maximum prices established for the product by Maximum Price Regulation No. 74, as amended. The Office of Price Administration has not permitted you or any other seller to raise maximum prices for sales of these meat scraps.

(d) All prayers and requests contained in the application of Valley Chemical Company which have not been granted herein are denied.

(e) This Order No. 5 may be revoked or amended by the Price Administrator at any time.

(f) This Order No. 5 shall become effective March 11, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3790; Filed, March 10, 1943; 2:56 p. m.]

[Order 170 Under MPR 120]

MASSILLON MINING COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 170 under Maximum Price Regulation No. 120—Bituminous Coal Delivered from Mine or Preparation Plant—Docket No. 3120-179.

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with § 1340.207 (d) of Maximum Price Regulation No. 120, *It is ordered:*

(a) Coals produced by Robert D. Paul, doing business as Massillon Mining Company, Massillon, Ohio, at his Massillon Mine, Mine Index No. 1683, in District No. 4, may be sold and purchased for shipment by truck at prices not to exceed the following respective prices per net ton f. o. b. the mine:

Size groups	2	6
Price	$4.60	$3.40

(b) Within thirty (30) days from the effective date of this order, Robert D. Paul (Massillon Mining Company) shall notify all persons purchasing his coals of the adjustments granted in paragraph (a) of this order and shall include a statement that if the purchaser is subject to Revised Maximum Price Regulation No. 122 in the resale of coal, the adjustments granted in this order do not au-

thorize any increase in the purchaser's resale price except in accordance with and subject to the conditions stated in Revised Maximum Price Regulation No. 122.

(c) This Order No. 170 may be revoked or amended by the Administrator at any time.

(d) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein.

(e) This Order No. 170 shall become effective March 11, 1943.

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3787; Filed, March 10, 1943; 2:57 p. m.]

[Order 3 Under MPR 186]

SEATTLE BOX COMPANY

SPECIAL ADDITION FOR LOCAL SALES OF SHOOK FOR METROPOLITAN FACTORIES

Order No. 3 under § 1377.110 (d)—Maximum Price Regulation No. 186—Western Wooden Agricultural Containers.

Pursuant to the provisions of § 1377.110 (d) of Maximum Price Regulation No. 186, Western Wooden Agricultural Containers, Seattle Box Company has shown by letter that it is located within the city limits of Seattle, Washington, one of the designated cities, and that at least 66 percent of its total 1942 box production was industrial boxes, and that it is entitled to qualify as a metropolitan factory and, as such, make the special addition of $5.00 per thousand feet to the basic price on local sales of shook.

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order 9250, and pursuant to § 1377.110 (d) of Maximum Price Regulation No. 186, *It is hereby ordered*, That the Seattle Box Company, Seattle, Washington, be permitted to make a special addition of not more than $5.00 per thousand feet to the basic price on local sales of shook.

The effective date of this order is February 9, 1943.

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R Doc. 43-3789; Filed, March 10, 1943; 2:56 p. m.]

[Order 37 Under RPS 6]

KEYSTONE STEEL AND WIRE COMPANY

ORDER GRANTING PARTIAL EXCEPTION

Order No. 37 under Revised Price Schedule No. 6—Iron and Steel Products—Docket No. 3006-38.

On February 5, 1943, Keystone Steel & Wire Company, Peoria, Illinois, filed a petition for exception to Revised Price Schedule No. 6, as amended, pursuant to § 1306.7 (c) thereof. Due consideration has been given to the petition and an opinion in support of this Order No. 37 has been issued simultaneously herewith and filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1, *It is hereby ordered*:

(a) The maximum base price at which Keystone Steel & Wire Company may sell to Acme Steel Company, Chicago, Illinois, and at which Acme Steel Company may purchase from Keystone Steel & Wire Company rerolling grade billets shall be the maximum Chicago, Illinois, basing point base price, f. o. b. Peoria, Illinois.

(b) The provisions of paragraph (a) hereof shall be applicable on all shipments made on or after February 5, 1943.

(c) All prayers of the petition not granted herein are denied.

(d) This Order No. 37 may be revoked or amended by the Price Administrator at any time.

(e) The definitions set forth in § 1306.8 of Revised Price Schedule No. 6 shall apply to the terms used herein.

(f) This Order No. 37 shall be effective as of February 5, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3786; Filed, March 10, 1943; 3:00 p. m.]

[General Order 49]

RATIFICATION AND ADOPTION OF PRICE AND RATIONING ACTIONS TAKEN BY THE MILITARY GOVERNOR FOR THE TERRITORY OF HAWAII

An opinion accompanying this general order has been issued and filed with the Division of Federal Register. For the reasons set forth in that opinion and pursuant to the authority conferred upon the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order 9250, and the authority conferred upon the Office of Price Administration by Food Distribution Administration Directive No. 3, Food Distribution Administration Directive No. 4, War Production Board Directive No. 1 and supplementary directives issued thereto the following Order is prescribed:

(a) All documents issued or action taken by the Military Governor for the Territory of Hawaii which are in effect on March 9, 1943, with respect to the rationing of commodities and the establishment, modification or adjustment of maximum prices for commodities and services in the Territory of Hawaii are hereby ratified and adopted by the Price Administrator and, until modified, terminated or superseded, shall continue in full force and effect.

(b) This General Order No. 49 shall take effect March 10, 1943.

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3813; Filed, March 10, 1943; 4:55 p. m.]

[Order 181 Under MPR 188]

JEWETT ASSOCIATES

APPROVAL OF MAXIMUM PRICES

Correction

In the document appearing on page 2744 of the issue for Thursday, March 4, 1943, the undesignated paragraph should be paragraph (c) and the figure $2.35 should be $2.36.

[Correction to Order 3 Under Rev. MPR 125]

EXCEL BRASS AND ALUMINUM FOUNDRY

ADJUSTMENT OF MAXIMUM PRICES

Correction to Order No. 3 under Revised Maximum Price Regulation No. 125—Nonferrous Castings.

In paragraph (a), after the phrase "the maximum prices prescribed by", the phrase "§ 1395.15" is corrected to read "§ 1395.3."

This correction shall become effective as of February 1, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-3788; Filed, March 10, 1943; 2:57 p. m.]